Ohio Legislative Service Commission

Final Analysis

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Reps. Conditt, Bubp, Garland, Hayes, Lynch, Pillich, R. Adams, Antonio, Barnes, Beck, Blair, Blessing, Brenner, Buchy, Carney, Celebrezze, Celeste, Cera, Clyde, Combs, Derickson, DeVitis, Driehaus, Fedor, Foley, Grossman, Hackett, C. Hagan, Hall, Heard, Hill, Hottinger, Huffman, Johnson, Landis, Letson, Maag, Mallory, McClain, McGregor, Milkovich, Murray, Newbold, O'Brien, Okey, Pelanda, Phillips, Ramos, Ruhl, Scherer, Sears, Slesnick, Smith, Sprague, Stinziano, Sykes, Szollosi, Terhar, Thompson, Uecker, Winburn, Young, Yuko, Batchelder

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ACT SUMMARY

- Requires that any judicial release hearing be held not less than 30 days or more than 60 days after the date on which the motion is filed, generally requires a prosecuting attorney who receives notice that a court has scheduled a judicial release hearing with respect to a first, second, or third degree felony offense of violence to notify the victim or the victim's representative of the hearing regardless of whether they requested notification unless the victim or victim's representative "opts out" of the mandatory notice, requires that an institutional summary report with respect to the offender be provided to the prosecuting attorney or a law enforcement agency upon request, requires the court to notify the prosecuting attorney of any judicial release, requires the prosecuting attorney to provide notice of any judicial release to the victim or the victim's representative, and prescribes the manner of providing the notices and of keeping records with respect to the notices.

- Provides that a victim who does not wish to receive any of the notices that the act generally requires to be provided even when a victim has not requested the notice may "opt out" of the notices by requesting the prosecutor or custodial agency that is to provide the particular notice to not provide the notice to the victim, provides for notice of the opportunity to "opt out" of such notices, and specifies that the "opt out"

provision also applies to a victim's representative or a member of a victim's immediate family that is authorized to receive any of the specified notices.

- Revises the Crime Victims Rights Law by: (1) providing that, if a defendant is incarcerated for aggravated murder, murder, or a first, second, or third degree felony offense of violence or under a life sentence or a juvenile offender has been charged with such an act, the notices that a prosecutor must give to a victim regarding a hearing for judicial release or under the Sexually Violent Predator Sentencing Law and the notices that a custodial agency must give to a victim generally must be given regardless of whether the victim requested notice unless the victim "opts out" of the notices, (2) requiring the custodial agency to give similar notice to the prosecutor, the sentencing court, the law enforcement agency that arrested the defendant or juvenile offender if any of its officers was a victim, and any member of the victim's immediate family, (3) prescribes the manner of providing the notices and of keeping records with respect to the notices, and (4) requiring a custodial agency to give the victim some of the notices it must provide under that Law at least 60 days before the event about which the notice is given.

- Permits a court to waive the requirement that an application for a change of name must be published in a newspaper of general circulation at least 30 days before the hearing on the application if the applicant submits satisfactory proof that the publication would jeopardize the applicant's personal safety and requires the court in such a case to order the records of the change of name proceeding to be sealed and opened only by order of the court for good cause shown or at the request of the applicant.

- Requires the Adult Parole Authority (APA) to adopt rules providing for a victim conference, upon request of the victim, a member of the victim's immediate family, or the victim's representative, prior to a parole hearing for a prisoner incarcerated for aggravated murder, murder, or a first, second, or third degree felony offense of violence or under a life sentence.

- Changes the time at which the APA must provide notices to a prosecuting attorney, judge, and victim or victim's representative of its recommendation of a pardon or commutation of sentence, or its granting of a parole, so that the notice must be given at least 60 days before the event, and provides that, upon the request of the prosecuting attorney or of any law enforcement agency, the APA must provide to the requesting prosecuting attorney and law enforcement agencies an institutional summary report with respect to the person.

- Specifies that the notices to a victim or victim's representative described in the preceding dot point generally must be given regardless of whether the victim or representative has requested the notices, unless the victim "opts out" of the notices, if the offender is incarcerated for aggravated murder, murder, or an "offense of violence" that is a first, second, or third degree felony or under a life sentence, specifies that the notices do not have to be given to a victim or victim's representative if notice was given to the victim or representative with respect to at least two prior considerations of pardon, commutation, or parole and the victim or representative did not respond with respect to the pending action, and prescribes the manner of providing the notices and of keeping records with respect to the notices.

- Specifies that the notices to a victim or victim's representative described in the second preceding dot point must inform the victim of the offense, the victim's representative, or a member of the victim's immediate family that the victim, the victim's representative, and the victim's immediate family has the right to give testimony at a full board hearing of the parole board and that the victim or victim's representative may contact the office of victims' services for further information if the person being considered for parole was convicted of or pleaded guilty to aggravated murder or murder, *an "offense of violence" that is a first, second, or third degree felony, or an offense punished by a sentence of life imprisonment* (language in italics added by the act).

- Requires the APA to notify the prosecutor at least two weeks prior to the release of a convict serving a sentence for aggravated murder or a sentence of life imprisonment from confinement in any state correctional institution pursuant to a pardon, commutation of sentence, parole, or completed prison term and requires notice to the prosecutor of the actual release pursuant to a pardon, commutation of sentence, parole, or completed prison term of a convict serving a sentence for committing aggravated murder, murder, or a first, second, or third degree felony or serving a sentence of life imprisonment.

- In the law governing the 80%-of-sentence-served release mechanism: (1) specifies that if the Director of the Department of Rehabilitation and Correction (DRC) submits a petition to the sentencing court for release of an offender under the mechanism and if the offender is incarcerated for aggravated murder, murder, or an "offense of violence" that is a first, second, or third degree felony, or under a life sentence, the Department generally must notify the victim or victim's representative of the filing of the petition regardless of whether the victim or representative requested the notification unless the victim or victim's representative "opts out" of the mandatory notice, (2) prescribes the manner of providing the notices and of

keeping records with respect to the notices, and (3) specifies that, when DRC provides the prosecutor with a copy of the petition, it also must provide a copy of the institutional summary report to any law enforcement agency that requests it.

- Changes the period of time for APA notice to a court of the pendency of the transfer of a prisoner to transitional control, notice to a victim prior to transferring a prisoner to transitional control, and posting on its Internet database of a pending transfer of a prisoner to transitional control so that the notices must be given at least 60 days prior to the particular event, and specifies that, if a prisoner is incarcerated for aggravated murder, murder, or a first, second, or third degree felony offense of violence or under a life sentence, the notices to a victim of the upcoming transfer of a prisoner to transitional control generally must be given regardless of whether the victim requested notice unless the victim or victim's representative "opts out" of the mandatory notice, and prescribes the manner of providing the notices and of keeping records with respect to the notices.

- Regarding post-release control: (1) expands the categories of prisoners convicted of a third-degree felony for whom post-release control is mandatory, (2) provides that at least 30 days before the prisoner is released from imprisonment DRC generally must notify the victim and the victim's immediate family of the date on which the prisoner will be released, the period for which the prisoner will be under post-release control supervision, and the terms and conditions of the prisoner's post-release control regardless of whether the victim or victim's immediate family requested the notification unless the victim or victim's representative "opts out" of the mandatory notice, (3) provides that at least 30 days before the prisoner is released from imprisonment and regardless of whether the victim or victim's immediate family has opted out of the notice DRC also must provide similar notice to the prosecuting attorney in the case and the law enforcement agency that arrested the prisoner if any of its officers was a victim, and (4) prescribes the manner of providing the notices and of keeping records with respect to the notices.

- Expands the discretion of a court to impose a prison term upon an offender who is convicted of or pleads guilty to a fourth or fifth degree felony that is not an offense of violence if the court finds specified additional factors.

- Eliminates the factors that a court must consider when a court is sentencing an offender for a fourth or fifth degree felony that *is* an offense of violence or is sentencing an offender for a fourth or fifth degree felony that *is not* an offense of violence and the court finds that any of certain specified factors apply.

- Requires a court determining whether to impose a prison term upon an offender described in the previous dot point, after considering the sentencing factors set forth

in the Felony Sentencing Law, to comply with the purposes and principles of sentencing under the Felony Sentencing Law.

- With respect to a prisoner serving an indefinite prison term consisting of a specified minimum term and maximum term under the Sexually Violent Predator Sentencing Law, provides that upon the request of the prosecuting attorney or of any law enforcement agency: (1) before the Parole Board may terminate its control over the offender's service of the term, it must provide to the requesting prosecuting attorney and law enforcement agencies an institutional summary report, and (2) after the Board has transferred control over the prisoner's service of a term to the sentencing court, before the court may consider whether the prisoner should be permitted to serve the term outside of a prison or whether to terminate the term, DRC must provide to the requesting prosecuting attorney and law enforcement agencies an institutional summary report.

- Changes the period of time within which DRC must include on its Internet database information regarding an upcoming APA recommendation of a pardon or commutation of sentence for an inmate, parole hearing for an inmate, or transitional control hearing for an inmate, so that the information must be included at least 60 days before the recommendation or hearing, and expands the information that must be included on the database for each inmate to require that the database indicate whether any victim of the offense was a law enforcement officer if that fact is known.

- Requires DRC to: (1) at the end of each quarter, submit to the chairpersons of the committees of the Senate and the House of Representatives that consider criminal justice legislation a report on the number and results of parole hearings conducted during the quarter and a list of persons incarcerated for committing offenses of violence who were granted parole and a summary of the terms and conditions of their parole, and (2) upon request, provide a detailed statement of the reasons why a particular prisoner was granted parole to the law enforcement agency that arrested the prisoner, the prosecuting attorney, or any member of the General Assembly.

- Regarding full Board hearings of the Parole Board: (1) permits a victim of aggravated murder, murder, a first, second, or third degree felony offense of violence, or an offense punishable by life imprisonment (aggravated murder or murder under continuing law), the victim's representative, or the spouse, parent or parents, sibling, or child or children of the victim to request the Parole Board to hold a full Board hearing regarding the proposed parole or re-parole of the offender, (2) specifies that the Board generally must give notice of the date, time, and place of the hearing to the victim regardless of whether the victim requested the notification unless the victim "opts out" of the mandatory notice, (3) provides that, at least 30

days before the full Board hearing and regardless of whether the victim has opted out of the notice, the Board also must notify the prosecuting attorney in the case, the law enforcement agency that arrested the prisoner if any of its officers was a victim, and, if different than the victim, the person who requested the full Board hearing, (4) prescribes the manner of providing the notices and of keeping records with respect to the notices, (5) specifies that if the prosecuting attorney has not previously been sent an institutional summary report with respect to the prisoner, upon the request of the prosecuting attorney, the Board must include with the notice sent to the prosecuting attorney an institutional summary report, (6) specifies that, upon the request of a law enforcement agency that has not previously been sent an institutional summary report with respect to the prisoner, the Board also must send a copy of the report to the agency, and (7) specifies that, if the victim of the original offense died as a result of the offense and the offense was aggravated murder, murder, a first, second, or third degree felony offense of violence, or an offense punished by life imprisonment, the victim's family may show at a full Board hearing a video recording memorializing the victim.

- Specifies that its victim notice-related provisions regarding judicial release, in the Crime Victims Rights Law, regarding a pending commutation of sentence, parole, or transitional control, regarding the 80%-of-sentence-served release mechanism, regarding post-release control, and regarding full Board hearings of the Parole Board, all as described above, are to be known as "Roberta's Law."

- Expands the offense of "voluntary manslaughter" to also prohibit a person from engaging with a sexual motivation in any conduct prohibited under the offense.

- Provides that: (1) "voluntary manslaughter" when committed with a sexual motivation is a sexually oriented offense for purposes of the Sex Offender Registration and Notification Law, (2) an offender who commits, attempts or conspires to commit, or engages in complicity in committing voluntary manslaughter with a sexual motivation is a Tier III sex offender/child-victim offender, and (3) a delinquent child who commits, attempts or conspires to commit, or engages in complicity in committing voluntary manslaughter with a sexual motivation is a public registry-qualified juvenile offender registrant if the juvenile court imposes a serious youthful offender dispositional sentence on the child, the child was 14, 15, 16, or 17 years of age at the time of committing the act, and the court classifies the child a juvenile offender registrant.

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CONTENT AND OPERATION

Judicial release

In general and time of hearing

Continuing law largely unchanged by the act provides that, upon the filing of a motion by an "eligible offender" or upon its own motion, a sentencing court may reduce the stated prison term of the offender through a judicial release. A specified period of time must expire after the offender begins serving his or her sentence before the offender may file a motion for judicial release. The specified period of time depends upon the length of the offender's mandatory and nonmandatory prison terms. "Eligible offender" means any person serving a stated prison term when either the stated prison term does not include a mandatory prison term, or the stated prison term includes a mandatory prison term, and the person has served the mandatory prison term. "Eligible offender" does not include a person serving a stated prison term for any of a list of specified felonies committed while the person held a public office on Ohio. Upon receipt of a timely motion by an eligible offender or upon its own motion, the court may schedule a hearing on the motion. The court may deny the motion without a hearing but cannot grant the motion without a hearing. The law specifies procedures that govern judicial release proceedings.

If a court receives a timely motion for judicial release filed by an eligible offender or makes a timely motion for judicial release and schedules a hearing on the motion, the court must conduct the hearing in open court within a specified period of time. The act modifies the time within which the court must conduct the hearing. Under the act, except for an authorized delay described below, the hearing must be conducted in open

court *not less than 30 days or more than 60 days* after the date on which the motion is filed. Formerly, except for an authorized delay described below, the hearing was required to be conducted in open court *within 60 days* after the motion is filed. The continuing "authorized delay" provision permits the court to delay the hearing for 180 additional days. Under the act and continuing law, if the court holds a hearing, it must enter a ruling on the motion within ten days after the hearing, and, if it denies the motion without a hearing, it must enter its ruling within 60 days after the motion is filed.[1]

Victim notifications by prosecuting attorney and court

Notification of hearing

Under continuing law, if a court schedules a judicial release hearing, it must notify the eligible offender and the head of the state correctional institution in which the offender is confined prior to the hearing. The head of the institution immediately must notify the appropriate person at the Department of Rehabilitation and Correction (DRC) of the hearing. DRC within 24 hours after receipt of the notice, must post on the Internet database it maintains the offender's name and specified information. If the court schedules a judicial release hearing, it promptly must give notice of the hearing to the prosecuting attorney of the county in which the eligible offender was indicted.[2]

Formerly, upon receipt of the notice from the court, the prosecuting attorney was required to notify the victim of the offense for which the stated prison term was imposed or the victim's representative of the hearing if the victim or representative had requested notification pursuant to the Crime Victims Rights Law. Under the act, when a prosecuting attorney receives this notice, the prosecuting attorney must do either of the following:[3]

(1) As under the former law, but subject to the provision described in the next paragraph, notify the victim of the offense for which the stated prison term was imposed or the victim's representative of the hearing if the victim or representative requested notification pursuant to the Crime Victims Rights Law;

(2) If the offense was an "offense of violence" (see "**Offenses of violence**" under "**Background**," below) that is a first, second, or third degree felony, except as otherwise described in this paragraph, notify the victim or the victim's representative of the hearing regardless of whether the victim or the victim's representative requested

[1] R.C. 2929.20(A) to (D).

[2] R.C. 2929.20(E).

[3] R.C. 2929.20(E).

notification. The notice is not to be given to a victim or representative if the victim has "opted out" of the notice (see "**Opting out of otherwise mandatory notice**," below). The prosecuting attorney may give the notice by any reasonable means, including regular mail, telephone, and electronic mail in accordance with the provision described below in "**Crime Victim's Rights Law notice provisions**." If the notice is based on an offense committed prior to the act's effective date, the notice also must include the opt-out information described below in "**Crime Victim's Rights Law notice provisions**." The prosecuting attorney must keep a record of attempts to provide notice and of notices provided in accordance with the provision described below in "**Crime Victim's Rights Law notice provisions**." The act specifies that the act's notice-related provisions regarding judicial release and the act's notice-related provisions in the Crime Victims Rights Law, regarding a pending commutation of sentence, grant of parole, or transitional control, regarding the 80%-of-sentence-served release mechanism, regarding post-release control, and regarding full Board hearings of the Parole Board, are to be known as "Roberta's Law."

Notification of grant of judicial release

Under continuing law, if a court grants a motion for judicial release, it must notify the appropriate person at DRC of the judicial release, and DRC must post notice of the release on the Internet database it maintains. Under the act, if a court grants a motion for judicial release, it also must notify the prosecuting attorney of the county in which the offender was indicted of the release. Unless the victim or victim's representative has "opted out" of the notice, the prosecuting attorney must notify the victim or representative of the judicial release in any manner, and in accordance with the same procedures, that apply regarding notice of the hearing, as described above. If the notice is based on an offense committed prior to the act's effective date, the notice to the victim or victim's representative also must include the opt-out information described below in "**Crime Victim's Rights Law notice provisions**."[4]

Provision of institutional summary report to prosecuting attorney or law enforcement agency

The act provides that, when a hearing is scheduled on a motion for judicial release, upon the request of the prosecuting attorney of the county in which the eligible offender was indicted or of any law enforcement agency, the head of the state correctional institution in which the eligible offender is confined must send to the requesting prosecuting attorney and law enforcement agencies a copy of the institutional summary report prepared with respect to the subject offender. The report must be sent at the same time that it is sent to the deciding court under continuing law.

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[4] R.C. 2929.20(K).

The institutional summary report, required under continuing law to be prepared for the deciding court's consideration, covers the offender's participation while in prison in school, training, work, treatment, and other rehabilitative activities and any disciplinary action taken against the prisoner while so confined.[5]

Opting out of otherwise mandatory notice

The act provides that a victim who does not wish to receive any of the notices that the act generally requires to be provided even when a victim has not requested the notice, as described above in "**Judicial release**" and below in "**Crime Victims Rights Law notice provisions**," "**Adult Parole Authority recommendations for pardon or commutation of sentence or grant of parole**," "**80%-of-sentence-served release mechanism**," "**Transfer to transitional control**," "**Post-release control**," and "**Full Board hearing of Parole Board**," must make a request to the prosecutor or custodial agency that is to provide the particular notice that the notice not be provided to the victim. Unless the victim makes such a request, the prosecutor or custodial agency must provide the notices required to be given to a victim under the provisions listed in the preceding sentence in any manner, and in accordance with the procedures, specified in the particular provision. This provision also applies to a victim's representative or a member of a victim's immediate family that is authorized to receive any of the specified notices.[6]

Crime Victims Rights Law notice provisions

In general

Several provisions of the Crime Victims Rights Law specify certain notices that must be given in specified circumstances to the "victim" of a "crime" by a "prosecutor" or "custodial agency" (see "**Crime Victims Rights Law definitions**" under "**Background**," below, for definitions of those terms) if the offender or delinquent child is sentenced to a prison term or term of institutionalization. The notices relate to the potential release of the offender or delinquent child and related matters.[7] Except for a few specified notices, a victim who wishes to receive any of those notices must make a request for the notice to the prosecutor or the custodial agency that is to provide the notice. If the victim does not make such a request, the prosecutor or custodial agency is not required to provide any of those notices. A prosecutor or custodial agency that is required to furnish any of those notices must give the particular notice to the victim at

[5] R.C. 2929.20(G).

[6] R.C. 2930.03(B)(2).

[7] R.C. 2930.16(B) and (C).

the address or telephone number provided by the victim. A victim must inform the prosecutor or custodial agency of the name, address, or telephone number of the victim and of any change to that information.[8]

After a prosecution in a case has been commenced, the prosecutor or a designee of the prosecutor, or a juvenile court in specified cases, to the extent practicable, promptly must provide to the victim certain specified information. Among the information that the prosecutor or the juvenile court must provide to the victim is notice that most notifications under the Crime Victims Rights Law, including the notices when the offender is sentenced to a prison term, will be given to the victim only if the victim asks to receive the notification.[9]

Operation of the act

Giving notice regardless of request

The act modifies the Crime Victims Rights Law provisions that pertain to victim notification of the potential release of an offender or delinquent child who has been sentenced to a prison term or term of institutionalization, and related matters, in the following ways:

(1) Under continuing law largely unchanged by the act, *upon the victim's request*, the prosecutor promptly must notify the victim of any hearing for judicial release of the defendant, of any hearing for release of the defendant pursuant to the 80%-of-sentence-served release mechanism, or of any hearing for judicial release or early release of the alleged juvenile offender and of the victim's right to make a statement with respect to such a release. The court must notify the victim of its ruling in each of those hearings and on each of those applications. Under the act, the prosecutor also must notify the victim of any such hearing in the circumstances specified in (4), below, *regardless of whether the victim requested notice*.[10]

(2) Under continuing law largely unchanged by the act, if an offender is sentenced to a prison term under the Sexually Violent Predator Sentencing Law, *upon the request of the victim of the crime*, the prosecutor promptly must notify the victim of any hearing to be conducted pursuant to that Law to determine whether to modify the requirement that the offender serve the entire prison term in a state correctional facility, whether to continue, revise, or revoke any existing modification of that requirement, or

[8] R.C. 2930.03(B)(1), (C), and (D).

[9] R.C. 2930.06.

[10] R.C. 2930.16(B)(1).

whether to terminate the prison term in accordance with that Law. The court must notify the victim of any order issued at the conclusion of the hearing. Under the act, the prosecutor also must notify the victim of any such hearing in the circumstances specified in (4), below, *regardless of whether the victim requested notice*.[11]

(3) Under continuing law largely unchanged by the act, *upon the victim's request* made at any time before the particular notice would be due, the "custodial agency" of a defendant or alleged juvenile offender must give the victim any of the following that is applicable (under the act, the custodial agency also must notify the victim of any such information in the circumstances specified in (4), below, *regardless of whether the victim requested notice*):[12]

(a) *At least three weeks before* the Adult Parole Authority (APA) recommends a pardon or commutation of sentence for the defendant or *at least three weeks prior* to a hearing before the Authority regarding a grant of parole to the defendant, notice of the victim's right to submit a statement regarding the impact of the defendant's release and, if applicable, of the victim's right to appear at a full board hearing of the Parole Board to give testimony as authorized by Adult Parole Authority Law;

(b) *At least three weeks before* the defendant is transferred to a DRC transitional control program, notice of the pendency of the transfer and of the victim's right to submit a statement regarding the impact of the transfer;

(c) *At least 30 days before* the Department of Youth Service's (DYS) release authority holds a release review, release hearing, or discharge review for the alleged juvenile offender, notice of the pendency of the review or hearing, of the victim's right to make an oral or written statement regarding the impact of the crime upon the victim or regarding the possible release or discharge, and, if applicable, of the victim's right to attend and make statements or comments at the hearing as authorized by Youth Services Law;

(d) Prompt notice of the defendant's or alleged juvenile offender's escape from a facility of the custodial agency in which the defendant or alleged juvenile offender was incarcerated or placed after commitment, of the defendant's or alleged juvenile offender's absence without leave from a mental health or developmental disabilities facility or from other custody, and of the capture of the defendant or alleged juvenile offender after an escape or absence;

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[11] R.C. 2930.16(B)(2).

[12] R.C. 2930.16(C).

(e) Notice of the defendant's or alleged juvenile offender's death while in confinement or custody;

(f) Notice of the defendant's or alleged juvenile offender's release from confinement or custody and the terms and conditions of the release.

To reflect a continuing provision of the 80%-of-sentence-served release mechanism (see "**80%-of-sentence-served release mechanism**," below), the act adds a requirement that the custodial agency give notice of the filing of a petition by DRC's Director requesting the early release of the defendant under the mechanism.[13]

(4) The act provides that, if a defendant is incarcerated for the commission of aggravated murder, murder, or an "offense of violence" (see "**Offenses of violence**" under "**Background**," below) that is a first, second, or third degree felony, or is under a sentence of life imprisonment, or if an alleged juvenile offender has been charged with the commission of an act that would be any such offense if committed by an adult, except as otherwise described in this paragraph, the prosecutor or custodial agency must give the notices described above in (1), (2), and (3) *regardless of whether the victim requested the notification*. The notices are not to be given under this provision to a victim if the victim has "opted out" of the notice. The custodial agency must give similar notice to the prosecutor in the case, to the sentencing court, to the law enforcement agency that arrested the defendant or alleged juvenile offender if any officer of that agency was a victim of the offense, and to any member of the victim's "immediate family" who requests notification. If the notice given under this provision to the victim is based on an offense committed prior to the act's effective date and if the prosecutor or custodial agency has not previously successfully provided any notice to the victim under this provision or under the continuing provisions described above in (1) to (3) with respect to that offense and the offender who committed it, the notice also must inform the victim that the victim may "opt out" of any further notices with respect to that offense and the offender who committed it and must describe the procedures to opt out of further notices. If the notice to the victim pertains to a parole hearing, the notice also must inform the victim that the victim, a member of the victim's immediate family, or the victim's representative may request a victim conference, and must provide an explanation of a victim conference.

The prosecutor or custodial agency may give the notices by any reasonable means, including regular mail, telephone, and electronic mail. If the prosecutor or custodial agency attempts to provide notice to a victim under this provision but the attempt is unsuccessful because the prosecutor or custodial agency is unable to locate

[13] R.C. 2930.16(C)(6).

the victim, is unable to provide the notice by its chosen method because it cannot determine the mailing address, telephone number, or electronic mail address at which to provide the notice, or if notice sent by mail is returned, the prosecutor or agency must make another attempt to provide the notice to the victim. If the second attempt is unsuccessful, the prosecutor or agency must make at least one more attempt to provide the notice. If the notice is based on an offense committed prior to the act's effective date, in each attempt to provide the notice to the victim, the notice must include the opt-out information described above. The prosecutor or custodial agency must keep a record of attempts and notices provided, as described below in (5). The act specifies that the act's notice-related provisions regarding judicial release, in the Crime Victims Rights Law, regarding a pending commutation of sentence, parole, or transitional control, regarding the 80%-of-sentence-served release mechanism, regarding post-release control, and regarding full Board hearings of the Parole Board, are to be known as "Roberta's Law."[14]

(5) The act requires each prosecutor and custodial agency that attempts to give any notice under the provision described above in (4) to keep a record of all attempts to give the notice. The record must indicate the person who was to be the recipient of the notice, the date and manner of the attempt, and the person who made the attempt. If the attempt is successful, the record must indicate that fact. The record must be kept in a manner that allows public inspection of attempts and notices given to persons other than victims without revealing the names, addresses, or other identifying information about the victims. The record of attempts and notices given to victims is not a public record, but the prosecutor or custodial agency must provide upon request a copy of that record to a prosecuting attorney, judge, law enforcement agency, or member of the General Assembly. The record of attempts and notices given to persons other than victims is a public record. A record kept under this provision may be indexed by offender name, or in any other manner determined by the prosecutor or custodial agency. Each prosecutor or custodial agency must determine the procedures and manner for keeping the record under this provision, subject to the requirements described in this paragraph.[15]

(6) The act changes the time at which some of the notices specified above in paragraphs (1), (2), and (3)(a) to (g) must be provided. The notice described above in paragraph (3)(a) must be provided *at least 60 days before* the APA recommends a pardon or commutation of sentence for the defendant or *at least 60 days prior* to a hearing before the APA regarding a grant of parole to the defendant. The notice described above in

[14] R.C. 2930.16(D)(1).

[15] R.C. 2930.16(D)(2).

paragraph (3)(b) must be provided *at least 60 days before* the defendant is transferred to transitional control. The notice described above in paragraph (3)(c) must be provided *at least 60 days before* DYS's release authority holds a release review, release hearing, or discharge review for the alleged offender.[16]

(7) The act makes changes in the provisions described above in "**In general**" that pertain to procedures and notifications regarding victim requests to conform them to the changes described in paragraphs (1) to (4), above.[17]

Waiver of notice of application for change of name

Continuing law permits a person desiring a change of name to file an application in the probate court of the county in which the person resides. The application must set forth that the applicant has been a bona fide resident of that county for at least one year prior to the filing of the application, the cause for which the change of name is sought, and the requested new name, along with other specified information about previous convictions, guilty pleas, or delinquent child adjudications for certain specified offenses.[18]

Continuing law generally unchanged by the act requires notice of the application to be given once by publication in a newspaper of general circulation in the county at least 30 days before the hearing on the application. The notice must set forth the court in which the application was filed, the case number, and the date and time of the hearing.[19]

Under the act, if an applicant for a change of name submits to the court, along with the application, satisfactory proof that the publication of the notice would jeopardize the applicant's personal safety, the court must waive the notice requirement. If the court orders the change of name, the court must order the records of the change of name proceeding to be sealed and to be opened only by order of the court for good cause shown or at the request of the applicant for any reason.[20]

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[16] R.C. 2930.16(C)(1) to (3).

[17] R.C. 2930.03 and 2930.06.

[18] R.C. 2717.01(A)(1).

[19] R.C. 2717.01(A)(2).

[20] R.C. 2717.01(A)(4).

Adult Parole Authority Rules – victim conference prior to a parole hearing

The act requires the APA to adopt rules under the Administrative Procedure Act providing for a victim conference, upon request of the victim, a member of the victim's immediate family, or the victim's representative, prior to a parole hearing for a prisoner incarcerated for aggravated murder, murder, or an "offense of violence" that is a first, second, or third degree felony or is under a sentence of life imprisonment. The rules must provide for at least the following: (1) subject to the provision described in clause (3), below, attendance by the victim, members of the "victim's immediate family," the victim's representative, and, if practicable, other individuals, (2) allotment of up to one hour for the conference, and (3) a specification of the number of persons specified in clause (1), above, who may be present at any single victim conference, if limited by DRC as described in the next paragraph.

DRC may limit, to not less than three, the number of persons specified in clause (1) of the preceding paragraph who may be present at any single victim conference. If DRC limits the number who may be present at any single victim conference, it must permit and schedule, upon request of the victim, a member of the victim's immediate family, or the victim's representative, multiple victim conferences for the persons specified in clause (1) of the preceding paragraph.[21]

Adult Parole Authority recommendations for pardon or commutation of sentence or grant of parole

In general

Under continuing and generally unchanged by the act, except for a release that is related to the state's shock incarceration program, *at least three weeks before* the APA recommends any pardon or commutation of sentence, or grants any parole, it must send a notice of the pendency of the pardon, commutation, or parole, setting forth specified information (see "**Content of the notices**," below) to the prosecuting attorney and the judge or presiding judge of the court of common pleas of the county in which the indictment against the person was found. It also must post on the Internet database it maintains the offender's name and specified information. Further, *if a request for notification has been made* pursuant to the Crime Victims Rights Law, DRC's Office of Victim Services or the APA must send the notice to the victim or the victim's representative *at least three weeks prior* to taking any of the specified actions. When notice of the pendency of any pardon, commutation of sentence, or parole has been given to a judge or prosecutor or posted on the Internet database and a hearing on the pending action is continued to a date certain, the APA must provide notice of the

[21] R.C. 2930.16(E) to (G).

further consideration of the pardon, commutation, or parole *at least three weeks before* the further consideration. When notice of the pendency of any pardon, commutation, or parole has been given to a victim or victim's representative and the hearing on it is continued to a date certain, the APA must give notice of the further consideration to the victim or the victim's representative under the Crime Victims Rights Law.

In case of an application for the pardon or commutation of sentence of a person sentenced to capital punishment, the Governor may modify the requirements of notification and publication if there is not sufficient time for compliance with the requirements before the date fixed for the execution of sentence. Special notice provisions apply to an offender serving a prison term under the state's Sexually Violent Predator Sentencing Law. In addition to and independent of any other rights provided by statute, any person may send to the APA at any time prior to its recommending a pardon or commutation or granting a parole for the offender a written statement relative to the offense and the pending action.[22]

Operation of the act

The act revises the notification provisions described above in "**In general**," as follows:

(1) Under the act, the APA must provide notices to a prosecuting attorney and judge of its recommendation of a pardon or commutation of sentence, or the granting of a parole, *at least 60 days before* the APA recommends any pardon or commutation of sentence, or grants any parole. This change of the time of the notice also applies to the APA's and Office of Victim Services' notice to the victim or victim's representative.[23]

(2) In the continuing provision that requires the notices to the prosecuting attorney and court, the act provides that, upon the request of the prosecuting attorney or of any law enforcement agency, the APA must provide to the requesting prosecuting attorney and law enforcement agencies an institutional summary report that covers the subject person's participation while confined in a state correctional institution in training, work, and other rehabilitative activities and any disciplinary action taken against the person whole so confined. If a prosecuting attorney or law enforcement agency is provided a copy of the institutional summary and if the hearing on the pardon, commutation, or parole is continued to a date certain, the APA must include with the notice of further consideration sent to the prosecuting attorney any new information about the subject person that relates to activities and actions of a type

[22] R.C. 2967.12.

[23] R.C. 2967.12(A) and (B).

covered by the report and must send to the law enforcement agency a report that provides notice of the further consideration and includes any such new information with respect to the subject person.[24]

(3) If the hearing on the pardon, commutation, or parole of a prisoner is continued to a date certain, the act requires that the notice of the further consideration of the pardon, commutation, or parole be provided to the proper judge and prosecuting attorney and posted on the Internet database *at least 60 days before* the further consideration.[25]

(4) The act specifies that, if a defendant is incarcerated aggravated murder, murder, or an "offense of violence" that is a first, second, or third degree felony or is under a sentence of life imprisonment, except as otherwise described in this paragraph, DRC's Office of Victim Services or the APA must give the notice of the pardon, commutation, or parole consideration described above in "**In general**" to the victim or victim's representative regardless of whether the victim or representative requested the notification. The notice is not to be given under this provision to a victim or representative if the victim or representative has "opted out" of the notice. The notice does not have to be given under this provision to a victim or victim's representative if notice was given to the victim or representative with respect to at least two prior considerations of pardon, commutation, or parole of a person and the victim or representative did not provide any statement relative to victimization and the pending action, did not attend any hearing regarding the pending action, and did not otherwise respond to the Office with respect to the pending action. Regardless of whether the victim or representative has "opted out" of the notice, the Office or APA must give similar notices to the law enforcement agency that arrested the defendant if any officer of that agency was a victim of the offense and to any "member of the victim's immediate family" (see (5), below) who requests notification. If notice is to be given under this provision, the Office or APA may give notice by any reasonable means, including, regular mail, telephone, and electronic mail in accordance with the provision described above in "**Crime Victim's Rights Law notice provisions**." If the notice is based on an offense committed prior to the act's effective date, the notice to the victim or victim's representative also must include the opt-out information described above in "**Crime Victim's Rights Law notice provisions**." The Office or APA must keep a record of attempts to provide notice and of notices provided in accordance with the provision described above in "**Crime Victim's Rights Law notice provisions**." The act specifies that act's notice-related provisions regarding a pending commutation of sentence,

[24] R.C. 2967.12(A) and (C).

[25] R.C. 2967.12(C).

parole, or transitional control and the act's notice-related provisions regarding judicial release, in the Crime Victims Rights Law, regarding the 80%-of-sentence-served release mechanism, regarding post-release control, and regarding full Board hearings of the Parole Board, are to be known as "Roberta's Law."[26]

(5) The act defines "victim's immediate family" for purposes of the provisions described above as the mother, father, spouse, sibling, or child of the victim, provided that in no case does "victim's immediate family" include the offender with respect to whom the notice in question applies.[27]

Content of the notices

Under continuing law, largely unchanged by the act, the notices to the prosecuting attorney, judge, and victim described above must include the name of the person on whose behalf the recommendation or grant is made, the offense of which the person was convicted, the time of conviction, and the term of the person's sentence. The notice to the victim also must inform the victim or the victim's representative that the victim or representative may send a written statement relative to the victimization and the pending action to the APA and that, if the APA receives any written statement prior to recommending a pardon or commutation or granting a parole for a person, it will consider the statement before it recommends a pardon or commutation or grants a parole. If the person is being considered for parole, the notice must inform the victim or the victim's representative that a full Board hearing of the Parole Board may be held and that the victim or victim's representative may contact the Office of Victim Services for further information. If the person being considered for parole was convicted of or pleaded guilty to *aggravated murder or murder*, the notice must inform the victim of that offense, the victim's representative, or a member of the victim's immediate family that the victim, the representative, and the immediate family have the right to give testimony at a full Board hearing of the Parole Board (but see "**Full-board hearings of the Parole Board**," below for changes in the provision governing the making of such a request) and that the victim or representative may contact the Office of Victim Services for further information.[28]

Under the act, if the person being considered for parole was convicted of or pleaded guilty to aggravated murder or murder, *an "offense of violence" that is a first, second, or third degree felony, or an offense punished by a sentence of life imprisonment* (language in italics added by act), the notice must inform the victim of that offense, the

[26] R.C. 2967.12(B) and (H).

[27] R.C. 2967.12(J).

[28] R.C. 2967.12(A) and (B).

victim's representative, or a member of the victim's immediate family that the victim, the victim's representative, and the victim's immediate family has the right to give testimony at a full board hearing of the parole board and that the victim or victim's representative may contact the office of victims' services for further information.[29]

Release from confinement of a convict serving a prison term for a serious felony

In general

Under continuing law generally unchanged by the act, except for a release of a person serving a sentence under the state's Sexually Violent Predator Sentencing Law, at least two weeks before any convict who is serving a sentence for committing a first, second, or third degree felony is released from confinement in any state correctional institution pursuant to a pardon, commutation of sentence, parole, or completed prison term, the APA must send notice of the release to the prosecuting attorney of the county in which the indictment of the convict was found. The notice must contain specified information (see "**Content of the notices**," below) and may be contained in a weekly list of all felons of the first, second, or third degree who are scheduled for release. The notice does not have to be provided if, upon admission to the state correctional institution, the offender has less than 14 days to serve on the sentence.[30]

Operation of the act

The act expands the release notification provision described above and enacts a new release notification provision as follows:[31]

(1) It expands the release notification provision so that it also applies to a convict who is serving a sentence for aggravated murder or murder or a sentence of life imprisonment.

(2) It specifies that, except for a release of a person serving a sentence under the state's Sexually Violent Predator Sentencing Law, if a convict who is serving a sentence for committing aggravated murder, murder, or a first, second, or third degree felony or who is serving a sentence of life imprisonment is released from confinement pursuant to a pardon, commutation of sentence, parole, or completed prison term, the APA must send notice of the release to the prosecuting attorney of the county in which the indictment of the convict was filed. The notice must be sent to the appropriate

[29] R.C. 2967.12(B).

[30] R.C. 2967.121.

[31] R.C. 2967.121(A), (B), and (D)(2).

prosecuting attorney at the end of the month in which the convict is released and may be contained in a monthly list of all convicts who are released in that month and for whom this provision requires a notice to be sent to that prosecuting attorney. This notice must contain the same information that must be in the notice to be provided to prosecuting attorneys prior to the release of the convict, and it does not have to be provided if, upon admission to the state correctional institution, the offender has less than 14 days to serve on the sentence.

Content of the notices

Under continuing law, unchanged by the act, the notices described above must contain all of the following: (1) the name of the convict being released, (2) the date of the release, (3) the offense for which the convict was convicted and incarcerated, (4) the date of the conviction pursuant to which the convict was incarcerated, (5) the sentence imposed for that conviction, (6) the length of any supervision the convict will be under, (7) the name, business address, and business phone number of the convict's supervising officer, and (8) the address at which the convict will reside.[32]

80%-of-sentence-served release mechanism

In general

Continuing law largely unchanged by the act provides a release mechanism that may be used in specified circumstances with respect to prisoners who have served 80% of their stated prison term. Under the mechanism, DRC's Director may petition the sentencing court for the release from prison of an inmate who is serving a stated prison term of one year or more, who is eligible under specified criteria, and who has served at least 80% of the stated prison term that remains to be served after becoming eligible for use of the mechanism. An inmate serving a stated prison term that includes a "disqualifying prison term" never is eligible for use of the 80%-of-sentence-served release mechanism, an inmate serving a stated prison term that includes one or more "restricting prison terms" is not eligible for release during the restricting prison terms but becomes eligible after having fully served each restricting prison term if the offender has an "eligible prison term" to serve after service of the restricting prison terms, and an inmate serving a stated prison term that consists solely of one or more eligible prison terms becomes eligible upon commencement of service of the term ("disqualifying prison term," "restricting prison term," and "eligible prison term" all are defined terms).

[32] R.C. 2967.121(C).

When the Director submits a petition under this provision for release of a prisoner, DRC promptly must provide to the prosecuting attorney of the county in which the offender was indicted a copy of the petition, a copy of the institutional summary report prepared by DRC, and any other information provided to the sentencing court. DRC also must promptly give notice of the filing of the petition to any victim of the offender or victim's representative of any victim of the offender who is registered with DRC's Office of Victim's Services.

If a court grants a petition under the mechanism, it must order the release of the inmate and place the inmate under one or more appropriate community control sanctions under appropriate conditions and under the supervision of the department of probation that serves the court, reserve the right to reimpose the sentence that it reduced and from which the offender was released if the offender violates the sanction, and if the sentence from which the inmate is being released was imposed for a first or second degree felony, consider ordering that the inmate be monitored by means of a GPS device.[33]

Operation of the act

The act revises the provisions regarding victim and victim's representative notification described above to specify that if DRC's Director submits a petition to the sentencing court for release of an offender under the 80%-of-sentence-served release mechanism and if the offender is incarcerated for aggravated murder, murder, an "offense of violence" that is a first, second, or third degree felony, or an offense punished by a sentence of life imprisonment, except as otherwise described in this paragraph, DRC must notify the victim or victim's representative of the filing of the petition regardless of whether the victim or representative has registered with the Office of Victim's Services. The notice is not to be given under this provision to a victim or representative if the victim or representative has "opted out" of the notice. If notice is to be given under this provision, DRC may give notice by any reasonable means, including, regular mail, telephone, and electronic mail in accordance with the provision described above in "**Crime Victim's Rights Law notice provisions**." If the notice is based on an offense committed prior to the act's effective date, the notice also must include the opt-out information described above in "**Crime Victim's Rights Law notice provisions**." DRC must keep a record of attempts to provide notice and of notices provided in accordance with the provision described above in "**Crime Victim's Rights Law notice provisions**." The act specifies that the act's notice-related provisions regarding the 80%-of-sentence-served release mechanism and the act's notice-related provisions regarding judicial release, in the Crime Victims Rights Law, regarding a

[33] R.C. 2967.19.

pending commutation of sentence, parole, or transitional control, regarding post-release control, and regarding full Board hearings of the Parole Board, are to be known as "Roberta's Law."[34]

Also, in the continuing provision that specifies that, if DRC's Director submits a petition to the sentencing court for release of an offender under the mechanism, DRC must provide the prosecutor with a copy of the petition, a copy of the institutional summary report, and any other information provided to the court, the act requires that DRC provide a copy of the institutional summary report to any law enforcement agency that requests it.[35]

Transitional control program

In general

Continuing law authorizes DRC to establish a transitional control program for the purpose of closely monitoring a prisoner's adjustment to community supervision during the final 180 days of the prisoner's confinement. If DRC establishes any such program, the APA may transfer eligible prisoners to transitional control status under the program during the final 180 days of their confinement and under the terms and conditions established by DRC, must provide for the confinement in a specified manner of each prisoner so transferred, and must supervise each prisoner so transferred in one or more community control sanctions. If a prisoner is transferred to transitional control, upon successful completion of the period of transitional control, the prisoner may be released on parole or under post-release control. The rules establishing any such program must include certain specified criteria, including eligibility and confinement criteria. Under continuing law, the APA and DRC must provide several notices regarding the potential and actual transfer of a prisoner to transitional control.[36]

Adult Parole Authority notification to sentencing court prior to transfer

Under continuing law largely unchanged by the act, *at least three weeks prior* to transferring to transitional control a prisoner who is serving a prison term, the APA must give notice of the pendency of the transfer to transitional control to the court of common pleas of the county in which the indictment against the prisoner was found and of the fact that the court may disapprove the transfer and must include a report prepared by the head of the state correctional institution in which the prisoner is

[34] R.C. 2967.19(E)(1)(b).

[35] R.C. 2967.19(D) and (E)(1).

[36] R.C. 2967.26.

confined that covers the offender's participation while in prison in school, vocational training, work, treatment, and other rehabilitative activities and any disciplinary action taken against the prisoner while so confined. If the court disapproves of the transfer of the prisoner to transitional control, it must notify the APA of the disapproval within 30 days after receipt of the notice. If the court timely disapproves the transfer, the APA cannot proceed with the transfer. If the court does not timely disapprove the transfer, the APA may transfer the prisoner to transitional control. The act modifies the provision requiring the notification to the court. Under the act, the APA must give the court the notice regarding the pendency of the transfer of a prisoner to transitional control and of the right to disapprove the transfer *at least 60 days prior* to the transfer. The act also names the report sent to the court the institutional summary report, but does not change the content of the report.[37]

Adult Parole Authority notice to victim prior to transfer

Under continuing law largely unchanged by the act, if the victim of an offense for which a prisoner was sentenced to a prison term has requested notification under the Crime Victims Rights Law and has provided DRC with the victim's name and address, the APA, *at least three weeks prior* to transferring the prisoner to transitional control, must notify the victim of the pendency of the transfer and of the victim's right to submit a statement to the APA regarding the impact of the transfer of the prisoner to transitional control. If the victim subsequently submits a statement of that nature to the APA, it must consider the statement in deciding whether to transfer the prisoner to transitional control. The act modifies the provision requiring the notification to the victim as follows:[38]

(1) Under the act, if the victim of an offense for which a prisoner was sentenced to a prison term has requested notification under the Crime Victims Rights Law and has provided DRC with the victim's name and address *or if the provision described in (2) below, applies*, the APA, *at least 60 days prior* to transferring the prisoner to transitional control, must provide the victim the notice regarding the pendency of the transfer of a prisoner to transitional control and the right to submit a statement.

(2) Under the act, if a prisoner is incarcerated for the commission of aggravated murder, murder, or an "offense of violence" (see "**Offenses of violence**," under "**Background**," below) that is a first, second, or third degree felony or under a sentence of life imprisonment, except as otherwise described in this paragraph, the APA must give the notice described in paragraph (1), above, regardless of whether the victim

[37] R.C. 2967.26(A)(2).

[38] R.C. 2967.26(A)(3).

requested the notification. The notice is not to be given under this provision to a victim if the victim has "opted out" of the notice. If the notice is to be provided to a victim, the APA may give the notice by any reasonable means, including regular mail, telephone, and electronic mail in accordance with the provision described above in "**Crime Victim's Rights Law notice provisions**." If the notice is based on an offense committed prior to the act's effective date, the notice also must include the opt-out information described above in "**Crime Victim's Rights Law notice provisions**." The APA must keep a record of attempts to provide notice and of notices provided in accordance with the provision described above in "**Crime Victim's Rights Law notice provisions**." The act specifies that the act's notice-related provisions regarding transitional control and the act's notice-related provisions regarding judicial release, in the Crime Victims Rights Law, regarding a pending commutation of sentence or parole, the 80%-of-sentence-served release mechanism, post-release control, and full Board hearings of the Parole Board, are to be known as "Roberta's Law."

Department of Rehabilitation and Correction Internet posting prior to transfer

Under continuing law largely unchanged by the act, DRC, *at least three weeks prior* to a hearing to transfer a prisoner to transitional control, must post on the Internet database it is required to maintain the prisoner's name and certain specified information. In addition to and independent of any right or duty of a person to present information or make a statement, any person may send to the APA at any time prior to its transfer of the prisoner to transitional control a written statement regarding the transfer of the prisoner to transitional control. The APA must consider each statement so submitted in deciding whether to transfer the prisoner to transitional control. Under the act, DRC must post on the Internet database the name of a prisoner who is to be transferred to transitional control and the specified information *at least 60 days prior* to the transfer.[39]

Post-release control

In general

Under continuing law generally unchanged by the act, persons sentenced to prison for specified categories of felonies must be subjected to mandatory post-release control for either three or five years, depending upon the felony, upon their release from imprisonment. Persons sentenced to prison for a felony not in any of the specified categories may be subjected, at the discretion of the Parole Board, to post-release control for up to three years upon their release from imprisonment. Before the release from imprisonment of a prisoner who is to be subjected to post-release control, the Parole

[39] R.C. 2967.26(A)(4).

Board must impose upon the prisoner one or more post-release control sanctions to apply during the prisoner's period of post-release control. The post-release control conditions must include a condition that the individual not leave the state without permission and abide by the law and may include other conditions, including any community residential sanction, community nonresidential sanction, or financial sanction.[40]

Operation of the act

Mandatory post-release control for third degree felony

The act modifies the circumstances in which post-release control is mandatory for an offender convicted of a third degree felony. Under the act, unless reduced by the Parole Board in accordance with a specified continuing procedure when it is authorized to do so, the Board must impose a mandatory period of post-release control of three years upon an offender convicted of a *third degree felony that is an "offense of violence" and is not a felony sex offense*. Formerly, unless reduced by the Parole Board in accordance with the specified procedure, an offender convicted of a third degree felony was subject to the mandatory three-year period of post-release control only if the third degree felony was not a felony sex offense and in the commission of which the offender had not caused or threatened to cause physical harm to a person. The act does not affect the other circumstances in which the Parole Board must impose a mandatory period of post-release control – a five-year period on an offender convicted of a first degree felony or a felony sex offense, and a three-year period on an offender convicted of a second degree felony that is not a felony sex offense.[41]

Victim, family, prosecuting attorney, and law enforcement agency notification by DRC

Under the act, at least 30 days before the prisoner is released from prison, except as otherwise described in this paragraph, DRC must notify the victim and the "victim's immediate family," of the date on which the prisoner will be released, the period for which the prisoner will be under post-release control supervision, and the terms and conditions of the prisoner's post-release control regardless of whether the victim or victim's immediate family requested the notification. The notice is not to be given to a victim or victim's immediate family if the victim or immediate family has "opted out" of the notice. At least 30 days before the prisoner is released from imprisonment and regardless of whether the victim or victim's immediate family has "opted out" of the notice, DRC also must provide similar notice to the prosecuting attorney in the case and

[40] R.C. 2967.28.

[41] R.C. 2967.28(B).

the law enforcement agency that arrested the prisoner if any officer of that agency was a victim of the offense.

DRC may give the notices described in this paragraph by any reasonable means, including regular mail, telephone, and electronic mail, and must follow notice-provision procedures similar to those described above in "**Crime Victim's Rights Law notice provisions**." If the notice to the victim or victim's immediate family is based on an offense committed prior to the act's effective date and if DRC has not previously successfully provided any notice to the victim or immediate family under the notice provisions of the Crime Victims Rights Law with respect to that offense and the offender who committed it, the notice also must inform the victim or immediate family that the victim or immediate family may "opt out" of further notices with respect to that offense and the offender who committed it and must describe the procedure for opting out. DRC must keep a record of attempts to provide notice and of notices provided in accordance with the provision described above in "**Crime Victim's Rights Law notice provisions**." The act specifies that the act's notice-related provisions regarding post-release control and the act's victim notice-related provisions regarding judicial release, in the Crime Victims Rights Law, regarding a pending commutation of sentence, parole, or transitional control, regarding the 80%-of-sentence-served release mechanism, and regarding full Board hearings of the Parole Board, are to be known as "Roberta's Law."[42]

Fourth and fifth degree felony sentencing

Continuing law – mandatory community control sanctions

Subject to exceptions described below in "**Continuing law – court discretion to impose a prison term**," continuing law specifies that, if an offender is convicted of or pleads guilty to any fourth or fifth degree felony that is not an offense of violence, the court must sentence the offender to a community control sanction of at least one year's duration if all of the following apply:[43]

(1) The offender previously has not been convicted of or pleaded guilty to a felony or to a misdemeanor offense of violence that the offender committed within two years prior to the offense for which sentence is being imposed.

(2) The most serious charge against the offender at the time of sentencing is a fourth or fifth degree felony.

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[42] R.C. 2967.28(D)(1).

[43] R.C. 2929.13(B)(1)(a).

(3) If the court believed that no appropriate community control sanctions were available and requested DRC to provide specified information for any such available programs, DRC within a specified 45-day period provided the court with the names of, contact information for, and program details of one or more community control sanctions of at least one year's duration that are available for persons sentenced by that court.

Continuing law – court discretion to impose a prison term

The court has discretion to impose a prison term upon an offender who is convicted of or pleads guilty to a fourth or fifth degree felony that is not an offense of violence if any of the following apply:[44]

(1) The offender committed the offense while having a firearm on or about the offender's person or under the offender's control.

(2) The offender caused physical harm to another person while committing the offense.

(3) The offender violated a term of the conditions of bond as set by the court.

(4) The court believed that no appropriate community control sanctions were available and requested DRC to provide specified information for any such available programs, and DRC within a specified 45-day period did not provide the court with the name of, contact information for, and program details of any community control sanction of at least one year's duration that is available for persons sentenced by the court.

Former law – required prison term

Prior to the act, a court was required to consider a list of certain specified factors (described in the following paragraph) if a court was sentencing an offender for a fourth or fifth degree felony that *is* an offense of violence or if a court was sentencing an offender for a fourth or fifth degree felony that *is not* an offense of violence, and the court found that any of the following applied:[45]

(1) The offender previously *had* been convicted of or pleaded guilty to a felony or to a misdemeanor offense of violence that the offender committed within two years prior to the offense for which sentence was being imposed.

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[44] R.C. 2929.13(B)(1)(b).

[45] R.C. 2929.13(B)(2).

(2) The most serious charge against the offender at the time of sentencing was *not* a fourth or fifth degree felony.

(3) The court believed that no appropriate community control sanctions were available and requested DRC to provide specified information for any such available programs, and DRC within a specified 45-day period *had not* provided the court with the names of, contact information for, and program details of one or more community control sanctions of at least one year's duration that were available for persons sentenced by that court.

The court was required to impose a prison term upon the offender if the court, after having considered the sentencing factors set forth in the Felony Sentencing Law, found that a prison term was consistent with the purposes and principles of sentencing set forth in the Felony Sentencing Law, found that the offender was not amenable to an available community control sanction, and found that any of the following factors applied:[46]

(1) In committing the offense, the offender had caused physical harm to a person.

(2) In committing the offense, the offender had attempted to cause or had made an actual threat of physical harm to a person with a deadly weapon.

(3) In committing the offense, the offender had attempted to cause or had made an actual threat of physical harm to a person, and the offender previously had been convicted of an offense that caused physical harm to a person.

(4) The offender held a public office or position of trust and the offense was related to that office or position; the offender's position had obliged the offender to prevent the offense or to bring those committing it to justice; or the offender's professional reputation or position had facilitated the offense or had been likely to influence the future conduct of others.

(5) The offender had committed the offense for hire or as part of an organized criminal activity.

(6) The offense was a sex offense that was a fourth or fifth degree felony and was the offense of sexual battery, unlawful sexual conduct with a minor, gross sexual imposition, promoting prostitution, disseminating material harmful to juveniles, pandering obscenity involving a minor, pandering sexually oriented matter involving a

[46] R.C. 2929.13(B)(2) and (3)(a).

minor, illegal use of a minor in a nudity-oriented material or performance, or compelling acceptance of objectionable materials.

(7) The offender at the time of the offense had been serving, or the offender previously had served, a prison term.

(8) The offender had committed the offense while under a community control sanction, while on probation, or while released from custody on a bond or personal recognizance.

(9) The offender had committed the offense while in possession of a firearm.

If the court did not find that any of the factors listed in the previous paragraph applied, and if the court, after having considered the factors set forth in the Felony Sentencing Law, found that a community control sanction or combination of community control sanctions was consistent with the purposes and principles of sentencing set forth in the Felony Sentencing Law, the court was required to impose a community control sanction or combination of community control sanctions upon the offender.[47]

Operation of the act – mandatory community control sanctions

The act splits the language in one of the factors discussed above under "**Continuing law – mandatory community control sanctions**" that must be applicable to an offender who is convicted of or pleads guilty to any fourth or fifth degree felony that is not an offense of violence in order for a court to be required to sentence the offender to a community control sanction of at least one year's duration. The factor that provided, "The offender previously has not been convicted of or pleaded guilty to a felony offense or to an offense of violence that is a misdemeanor and that the offender committed within two years prior to the offense for which sentence is being imposed," now provides that, "The offender previously has not been convicted of or pleaded guilty to a felony offense" and a new factor provides "The offender previously has not been convicted of or pleaded guilty to a misdemeanor offense of violence that the offender committed within two years prior to the offense for which the sentence is being imposed.[48]

[47] R.C. 2929.13(B)(2) and (3), 2929.11, and 2929.12.

[48] R.C. 2919.13(B)(1)(a)(i) and (iv).

Operation of the act – court discretion to impose a prison term

The act expands the discretion of a court to impose a prison term upon an offender who is convicted of or pleads guilty to a fourth or fifth degree felony that is not an offense of violence. Under the act, a court may impose a prison term upon such offender if the court finds that any of the four factors discussed above under "**Continuing law – court discretion to impose a prison term**" exist or if the court finds that any of the following seven additional factors exist:[49]

(1) The offense is a sex offense that is a fourth or fifth degree felony violation of any provision of the Sex Offense Law.

(2) In committing the offense, the offender attempted to cause or made an actual threat of physical harm to a person with a deadly weapon.

(3) In committing the offense, the offender attempted to cause or made an actual threat of physical harm to a person, and the offender previously was convicted of an offense that caused physical harm to a person.

(4) The offender held a public office or position of trust, and the offense related to that office or position; the offender's position obliged the offender to prevent the offense or to bring those committing it to justice; or the offender's professional reputation or position facilitated the offense or was likely to influence the future conduct of others.

(5) The offender committed the offense for hire or as part of an organized criminal activity.

(6) The offender at the time of the offense was serving, or the offender previously had served, a prison term.

(7) The offender committed the offense while under a community control sanction, while on probation, or while released from custody on a bond or personal recognizance.

The act eliminates the nine factors discussed above in the second paragraph under "**Former law – required prison term**" that a court was required to consider when a court sentenced an offender for a fourth or fifth degree felony that *is* an offense of violence or sentenced an offender for a fourth or fifth degree felony that *is not* an offense of violence and the court found that any of three factors listed above in the first paragraph of "**Former law – required prison term**" applied.

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[49] R.C. 2929.13(B)(1)(b)(v) through (xi).

Under the act, when determining whether to impose a prison term upon an offender described in the previous paragraph, the sentencing court, after considering the sentencing factors set forth in the Felony Sentencing Law, must comply with the purposes and principles of felony sentencing.[50] It also eliminates the provisions discussed above that required the court to impose a prison term upon such an offender when the court found one of the nine factors to exist or that require the court to impose community control sanctions upon such an offender.[51]

Technical changes

The act rephrases language described above under "**Continuing law – mandatory community control sanctions**." One of the factors upon the finding of which a court must sentence a fourth or fifth degree felony offender who has not been convicted of or pled guilty to an offense of violence read as follows under former law: The offender previously has not been convicted of or pleaded guilty to a felony offense or to an offense of violence that is a misdemeanor and that the offender committed within two years prior to the offense for which sentence is being imposed. Under the act, that language is split into two factors that read as follows:

(1) "The offender previously has not been convicted of or pleaded guilty to a felony offense."

(2) "The offender previously has not been convicted of or pleaded guilty to a misdemeanor offense of violence that the offender committed within two years prior to the offense for which sentence is being imposed."[52]

The act corrects two cross-references to sections that reference divisions of R.C. 2929.13 that are amended by the act. Formerly, R.C. 2951.041(B)(1) contained a reference to R.C. 2929.13(B)(3)(b), which is repealed by the act. This reference was amended to reflect R.C. 2929.13(B)(2). Formerly, R.C. 2953.08(A)(2) contained a reference to R.C. 2929.13(B)(1)(a) to (i). Due to a technical error in drafting previous legislation this reference should have read R.C. 2929.13(B)(2)(a) to (i), but the act repealed R.C. 2929.13(B)(2)(a) to (i), thus making the reference obsolete.

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[50] R.C. 2929.13(B)(2).

[51] R.C. 2929.13(B)(3).

[52] R.C. 2929.13(B)(1)(a)(i) and (iv).

Sexually Violent Predator Sentencing Law

In general

The Sexually Violent Predator Sentencing Law is set forth in R.C. Chapter 2971. Under its provisions, persons convicted of certain offenses and also convicted of a sexually violent predator specification, or persons convicted of certain sex-related offenses, are sentenced either to life imprisonment without parole or to an indefinite prison term sentence consisting of a specified minimum term and a specified maximum term (generally, life imprisonment, but in certain circumstances, 25 years). An offender sentenced to a term of life imprisonment without parole must serve the entire term in a prison. An offender sentenced to an indefinite prison term, must serve the entire term unless, pursuant to a specified release procedure, the sentencing court modifies or terminates the prison term.[53] Under the release procedure, at any time after the offender has served the minimum term imposed under the sentence, the Parole Board may terminate its control over the offender's service of the prison term if it makes specified findings at a hearing. The offender and the prosecuting attorney may attend, and make statements at, the hearing. The law provides procedures that must be followed, and findings that must be made, at the hearing. If the Board terminates its control over the offender's service of the term, it immediately must provide written notice of its termination of the control to DRC, the sentencing court, and the prosecuting attorney and, after the termination, the sentencing court has control over the offender's service of the term.[54]

After the Parole Board transfers its control over an offender's service of an indefinite prison term as described in the preceding paragraph, the court has control over the offender's service of that prison term, subject to the court's termination of that term. After the transfer of control, the court must conduct in specified circumstances, and may conduct in other circumstances, a hearing to determine whether to modify the requirement that the offender serve the entire prison term in a prison or whether to terminate that term. The court must provide notice of the date, time, place, and purpose of the hearing to the offender, the prosecuting attorney, DRC, and the APA. The law provides procedures that must be followed, and findings that must be made, at the hearing. If the court modifies the requirement that the offender serve the entire prison term in a prison, it must order the APA to supervise the offender while outside of the prison. The modification does not terminate the prison term, but serves only to suspend the requirement that the offender serve the entire term in prison. If the court terminates the prison term, it must place the offender on conditional release for five

[53] R.C. 2971.03.

[54] R.C. 2971.04.

years and order the APA to supervise the offender during that period. At the end of the five-year period, the court conducts a hearing to determine whether the termination of the offender's prison term should be finalized, whether the period of conditional release should be extended, or whether another type of action should be taken. The court must notify the offender and the prosecuting attorney of the date, time, place, and purpose of the hearing.[55]

Provision of institutional summary report to prosecuting attorney or law enforcement agency

The act provides that, with respect to a prisoner serving an indefinite prison term consisting of a specified minimum term and maximum term under the Sexually Violent Predator Sentencing Law, upon the request of the prosecuting attorney or of any law enforcement agency:[56]

(1) Before the Parole Board may terminate its control over the offender's service of the prison term, the Board must provide to the requesting prosecuting attorney and law enforcement agencies an institutional summary report prepared by DRC that covers the prisoner's participation while confined in a prison in training, work, and other rehabilitative activities and any disciplinary action taken against the prisoner while so confined;

(2) After the Parole Board has transferred control over the prisoner's service of a prison term to the sentencing court, before the court may consider whether the prisoner should be permitted to serve the term outside of a prison or whether to terminate the term, DRC must provide to the requesting prosecuting attorney and law enforcement agencies an institutional summary report it prepares that covers the matters described in paragraph (1), above.

Department of Rehabilitation and Correction Internet database

In general

Under continuing law largely unchanged by the act, DRC must establish and operate on the Internet a database that contains specified information for each inmate in its custody under a sentence imposed for a conviction of or plea of guilty to any offense. Some of the information relates to the inmate and the crime for which the inmate is in

[55] R.C. 2971.05.

[56] R.C. 2971.04(A) and 2971.05(B)(1).

custody, and some of it relates to a possible release of the inmate or transfer of the inmate out of a prison.[57]

Operation of the act

The act modifies some of the provisions that describe the information that must be on the Internet database that relates to a possible release of an inmate in DRC's custody or a possible transfer of an inmate out of a prison. Under the act's modifications, for each inmate included on the database, the database must contain all of the following that relates to a possible release of the inmate in DRC's custody or a possible transfer of the inmate out of a prison:[58]

(1) For each offense for which the inmate was sentenced to a prison term or term of imprisonment and is in DRC's custody, whether any victim of the offense was a law enforcement officer if that fact is known (this is in addition to the information required under continuing law which includes the name of the crime, the Revised Code section violated, the gender of each victim if known, whether each victim was an adult or child if known, etc.);

(2) *At least 60 days* (formerly three weeks) *before* the APA recommends a pardon or commutation of sentence for the inmate or *at least 60 days* (formerly three weeks) *prior* to a hearing before the APA regarding a grant of parole to the inmate in relation to any prison term the inmate is serving, notice of the fact that the inmate might be under consideration for a pardon or commutation of sentence or will be having a hearing regarding a possible grant of parole, the hearing date regarding a possible grant of parole, and the right of any person to submit a written statement regarding the pending action.

(3) *At least 60 days* (formerly three weeks) *before* the inmate is transferred to transitional control in relation to any prison term the inmate is serving, notice of the pendency of the transfer, the date of the possible transfer, and the right of any person to submit a statement regarding the possible transfer.

Parole-related reports by the Department of Rehabilitation and Correction

The act requires DRC, at the end of each quarter, to submit to the chairpersons of the committees of the Senate and the House of Representatives that consider criminal justice legislation a report on the number and results of parole hearings conducted during the quarter and a list of persons incarcerated for committing "offenses of

[57] R.C. 5120.66.

[58] R.C. 5120.66(A)(1)(b), (c)(iii), and (c)(iv).

violence" (see "**Offenses of violence**" under "**Background**," below) who were granted parole and a summary of the terms and conditions of their parole. DRC must provide the committees with any documentation related to the reports that members of the committees may request. Upon request, DRC must provide a detailed statement, supported by documentation, of the reasons why a particular prisoner was granted parole to the law enforcement agency that arrested the prisoner, the prosecuting attorney who prosecuted the case, or any person who is a member of the General Assembly at the time the person makes the request.[59]

Full Board hearings of the Parole Board

Request for, and notice of, full Board hearing

Under continuing law largely unchanged by the act, a Parole Board hearing officer, a Board member, or the Office of Victim Services may petition the Board for a full Board hearing that relates to the proposed parole or re-parole of a prisoner. At a meeting of the Board at which a majority of its members are present, the majority of those present must determine whether a full Board hearing will be held. Additionally, a victim of an aggravated murder or murder, the victim's representative, or the spouse, parent or parents, sibling, or child or children of the victim of the original offense may request the Board to hold a full Board hearing that relates to the proposed parole or re-parole of the person that committed the violation. If a victim, victim's representative, or other authorized person requests a full Board hearing pursuant to this provision, the Board must hold a full Board hearing.

The act modifies the categories of victims who may request a full Board hearing so that a victim of aggravated murder or murder, an "offense of violence" that is a first, second, or third degree felony or an offense punishable by a sentence of life imprisonment, the representative of such a victim, or the spouse, parent or parents, sibling, or child or children of such a victim may request a full Board hearing that relates to the proposed parole or re-parole of the person that committed the violation.

The act also specifies that, at least 30 days before a full Board hearing, except as otherwise described in this paragraph, the Board must give notice of the date, time, and place of the hearing to the victim regardless of whether the victim requested the notification. The notice is not to be given under this provision to a victim if the victim has "opted out" of the notice. At least 30 days before the full Board hearing and regardless of whether the victim has "opted out" of the notice, the Board also must notify the prosecuting attorney in the case, the law enforcement agency that arrested the prisoner if any officer of that agency was a victim of the offense, and, if different than

[59] R.C. 5149.07.

the victim, the person who requested the full Board hearing. If the prosecuting attorney has not previously been sent an institutional summary report with respect to the prisoner, upon the request of the prosecuting attorney, the Board must include with the notice sent to the prosecuting attorney an institutional summary report that covers the offender's participation while in prison in training, work, and other rehabilitative activities and any disciplinary action taken against the offender while confined. Upon the request of a law enforcement agency that has not previously been sent an institutional summary report with respect to the prisoner, the Board also must send a copy of the report to the agency. If the notice is to be provided under this provision, the Board may give the notice by any reasonable means, including regular mail, telephone, and electronic mail in accordance with the provision described above in "**Crime Victim's Rights Law notice provisions**." If the notice is based on an offense committed prior to the act's effective date, the notice also must include the opt-out information described above in "**Crime Victim's Rights Law notice provisions**." The Board must keep a record of attempts to provide notice and of notices provided in accordance with the provision described above in "**Crime Victim's Rights Law notice provisions**." The act specifies that the act's notice-related provisions regarding full Board hearings of the Parole Board and the act's notice-related provisions regarding judicial release, in the Crime Victims Rights Law, regarding a pending commutation of sentence, parole, or transitional control, regarding the 80%-of-sentence-served release mechanism, and regarding post-release control, are to be known as "Roberta's Law."[60]

Attendance and presentation of information at full Board hearing

Under ongoing law, at a full Board hearing that relates to the proposed parole or re-parole of a prisoner and that is being held under a provision described above, the Parole Board must permit the following persons to appear and to give testimony or to submit written statements: (1) the prosecuting attorney of the county in which the original indictment against the prisoner was found and members of any law enforcement agency that assisted in the prosecution of the original offense, (2) the judge of the court of common pleas who imposed the original sentence upon the prisoner, or the judge's successor, (3) the victim of the original offense for which the prisoner is serving the sentence or the victim's representative, (4) the victim of any behavior that resulted in parole being revoked, (5) with respect to a full Board hearing held pursuant to a request by a victim, victim's representative, or specified family member, the spouse, parent or parents, sibling, or child or children of the victim of the original offense, and (6) counsel or another person designated by the prisoner as a representative.

[60] R.C. 5149.101(A).

The act adds a new provision that specifies that, if the victim of the original offense died as a result of the offense and the offense was aggravated murder, murder, an "offense of violence" that is a first, second, or third degree felony, or an offense punished by a sentence of life imprisonment, the family of the victim may show at a full Board hearing a video recording not exceeding five minutes in length memorializing the victim.[61]

Voluntary manslaughter – new prohibition when involving sexual motivation

Ongoing law prohibits a person, while under the influence of sudden passion or in a sudden fit of rage, either of which is brought on by serious provocation occasioned by the victim that is reasonably sufficient to incite the person into using deadly force, from knowingly causing the death of another or the unlawful termination of another's pregnancy. A violation of the prohibition is the offense of "voluntary manslaughter," a felony of the first degree.

The act additionally prohibits a person, with a "sexual motivation" (see below), from engaging in any of the conduct prohibited under the offense of voluntary manslaughter. The penalty for voluntary manslaughter unchanged by the act, applies to a violation of the new prohibition.[62]

As used in the act's provision, "sexual motivation" means a purpose to gratify the sexual needs or desires of the offender.[63]

Sex Offender Registration and Notification Law – inclusion of voluntary manslaughter committed with a sexual motivation as a sexually oriented offense under that Law and related changes

Operation of the act

Definition of "sexually oriented offense"

The Sex Offender Registration and Notification Law (the SORN Law) is contained in R.C. Chapter 2950. It imposes a series of duties and restrictions upon a person who is convicted of or pleads guilty to a "sexually oriented offense" or a "child-victim oriented offense" or who is adjudicated a delinquent child for committing any such offense and who is classified as a "juvenile offender registrant." The act expands

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[61] R.C. 5149.101(B) and (D).

[62] R.C. 2903.03(A) to (C).

[63] R.C. 2903.03(D), by reference to R.C. 2971.01, not in the act.

the definition of "sexually oriented offense" so that, in addition to the offenses included within the definition under continuing law, it also includes the offense of "voluntary manslaughter" when it is committed with a sexual motivation in violation of the new prohibition added by the act (see "**Voluntary manslaughter – new prohibition when involving sexual motivation**," above).[64]

Definition of "Tier III sex offenders/child-victim offenders"

The SORN Law also categorizes offenders and delinquent children as "Tier I sex offenders/child-victim offenders," "Tier II sex offenders/child-victim offenders," and "Tier III sex offenders/child-victim offenders," depending upon the offense they committed. The act expands the current definition of "Tier III sex offender/child-victim offender" so that, in addition to the persons included within the definition under continuing law, it also includes the following:[65]

(1) A "sex offender" who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to, any of the following sexually oriented offenses: (a) the offense of "voluntary manslaughter" when it is committed with a sexual motivation in violation of the new prohibition added by the act, (b) a violation of any former law of Ohio, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States that is or was substantially equivalent to the offense of "voluntary manslaughter" when it is committed with a sexual motivation as described in clause (a) of this paragraph, or (c) any attempt to commit, conspiracy to commit, or complicity in committing the offense of "voluntary manslaughter" when it is committed with a sexual motivation as described in clause (a) of this paragraph;

(2) A sex offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing the offense of "voluntary manslaughter" when it is committed with a sexual motivation in violation of the new prohibition added by the act and who a juvenile court classifies a Tier III sex offender/child-victim offender relative to the offense;

(3) A sex offender who is convicted of, pleads guilty to, was convicted of, pleaded guilty to, is adjudicated a delinquent child for committing, or was adjudicated a delinquent child for committing an offense in another state, in a federal court, military court, or Indian tribal court, or in a court in any nation other than the United States that

[64] R.C. 2950.01(A)(10).

[65] R.C. 2950.01(G)(1)(g) to (i), (G)(3), and (G)(7).

is or was substantially equivalent to "voluntary manslaughter" when it is committed with a sexual motivation in violation of the new prohibition added by the act, if both of the following apply: (a) under the law of the jurisdiction in which the offender was convicted or pleaded guilty or the delinquent child was adjudicated, the offender or delinquent child is in a category substantially equivalent to a category of Tier III sex offender/child-victim offender described in the Ohio definition of the term, and (b) subsequent to the conviction, plea of guilty, or adjudication in the other jurisdiction, the offender or delinquent child resides, has temporary domicile, attends school or an institution of higher education, is employed, or intends to reside in Ohio in any manner and for any period of time that subjects the offender or delinquent child to a duty to register or provide notice of intent to reside under the SORN Law.

Definition of "public registry-qualified juvenile offender registrant"

The SORN Law also categorizes certain delinquent children as "public registry-qualified juvenile offender registrants." The act expands the definition of "public registry-qualified juvenile offender registrant" so that, in addition to the persons included within the definition under continuing law, it also includes a person who is adjudicated a delinquent child, on whom a juvenile court has imposed a "serious youthful offender dispositional sentence" under the Delinquent Children Law before, on, or after, January 1, 2008, and to whom all of the following apply:[66] (1) the person is adjudicated a delinquent child for committing, attempting to commit, conspiring to commit, or complicity in committing a violation that, if committed by an adult, would be the offense of "voluntary manslaughter" when it is committed with a sexual motivation in violation of the new prohibition added by the act, (2) the person was 14, 15, 16, or 17 years of age at the time of committing the act, and (3) a juvenile court judge classifies the person a juvenile offender registrant, specifies the person has a duty to comply with the SORN Law, and classifies the person a public registry-qualified juvenile offender registrant and the classification has not been terminated pursuant to the Juvenile Sex Offender Registration and Notification Law.

Classification of certain juvenile offender registrants as public registry-qualified juvenile offenders

Continuing law generally unchanged by the act provides mechanisms for the classification of certain juvenile offender registrants as public registry-qualified juvenile offender registrants. The act modifies two of the provisions to reflect the expansion in

[66] R.C. 2950.01(N).

the definition of "public registry-qualified juvenile offender registrant" that it makes, as described above, as follows:[67]

(1) In the provision that requires each juvenile court that adjudicates a child a delinquent child to issue as part of the dispositional order an order that classifies the child a juvenile offender registrant, specifies that the child has a duty to comply with the SORN Law, and additionally classifies the child a public registry-qualified juvenile offender registrant if the child satisfies all of the criteria for inclusion within the definition of "public registry-qualified juvenile offender registrant," it includes the changes to that definition that are described above.

(2) In the provision that requires each juvenile court, upon a child's release from the Department of Youth Services, to issue an order of the type described in the preceding paragraph if the child was adjudicated a delinquent child and a juvenile court imposed on the child a serious youthful offender dispositional sentence under the Delinquent Children Law for committing one of the acts specified in the definition of "public registry-qualified juvenile offender registrant," as described above, if the child was 14, 15, 16, or 17 years of age at the time of committing the act, and if the court did not issue an order classifying the child as both a juvenile offender registrant and a public registry-qualified juvenile offender registrant pursuant to the provision described in the preceding paragraph, it includes the changes to the definition of "public registry-qualified juvenile offender registrant" that are described above.

Background

Offenses of violence

Continuing law specifies that, as used in the Revised Code, "offense of violence" means any of the following: (1) a violation of R.C. 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.21, 2903.211, 2903.22, 2905.01, 2905.02, 2905.11, 2907.02, 2907.03, 2907.05, 2909.02, 2909.03, 2909.24, 2911.01, 2911.02, 2911.11, 2917.01, 2917.02, 2917.03, 2917.31, 2919.25, 2921.03, 2921.04, 2921.34, 2923.161, 2911.12(A)(1), (2), or (3), or 2919.22(B)(1), (2), (3), or (4), or former R.C. 2907.12, (2) a violation of an existing or former municipal ordinance or law of Ohio or any other state or the United States, substantially equivalent to any listed in clause (1) of this paragraph, (3) an offense, other than a traffic offense, under an existing or former municipal ordinance or law of Ohio or any other state or the United States, committed purposely or knowingly, and involving physical harm to persons or a risk of serious physical harm to persons, or

[67] R.C. 2152.86.

(4) a conspiracy or attempt to commit, or complicity in committing, any offense under clause (1), (2), or (3) of this paragraph.[68]

Crime Victims Rights Law definitions

Continuing law[69] defines a series of terms that are used in the Crime Victims Rights Law. Relevant to the act are the following definitions:

"***Crime***" means any of the following: (1) a felony, (2) a violation of R.C. 2903.05, 2903.06, 2903.13, 2903.21, 2903.211, 2903.22, 2907.06, 2919.25, or 2921.04, a violation of former R.C. 2903.07, or a violation of a substantially equivalent municipal ordinance, (3) a violation of R.C. 4511.19(A) or (B), 1547.11(A) or (B), or 4561.15(A)(3) or of a municipal ordinance substantially similar to any of those divisions that is the proximate cause of a vehicle, streetcar, trackless trolley, aquatic device, or aircraft accident in which the victim receives injuries for which the victim receives medical treatment either at the scene of the accident by emergency medical services personnel or at a hospital, ambulatory care facility, physician's office, specialist's office, or other medical care facility, or (4) a motor vehicle accident, if the accident is caused by a violation of a provision of the Revised Code that is a misdemeanor of the first degree or higher and if, as a result of the accident, the victim receives injuries for which the victim receives medical treatment either at the scene of the accident by emergency medical services personnel or at a hospital, ambulatory care facility, physician's office, specialist's office, or other medical care facility.

"***Custodial agency***" means one of the following: (1) the entity that has custody of a defendant or an alleged juvenile offender who is incarcerated for a crime, is under detention for the commission of a specified delinquent act, or who is detained after a finding of incompetence to stand trial or not guilty by reason of insanity relative to a crime, including DRC or the APA, a county sheriff, the entity that administers a jail, as defined in the Criminal Sentencing Law, the entity that administers a community-based correctional facility and program or a district community-based correctional facility and program, or the Department of Mental Health or other entity to which a defendant found incompetent to stand trial or not guilty by reason of insanity is committed, or (2) the entity that has custody of an alleged juvenile offender pursuant to an order of disposition of a juvenile court, including the department of youth services or a school, camp, institution, or other facility operated for the care of delinquent children.

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[68] R.C. 2901.01, not in the act.

[69] R.C. 2930.01, not in the act.

"***Prosecutor***" means one of the following: (1) with respect to a criminal case, it has the same meaning as in the Arrest, Citation, and Disposition Alternatives Law and also includes the Attorney General and, when appropriate, the employees of any as a magistrate, peace officer, or prosecutor in the Arrest, Citation, and Disposition Alternatives Law, or of the Attorney General, or (2) with respect to a delinquency proceeding, it includes any person listed as a prosecutor in the Arrest, Citation, and Disposition Alternatives Law, or an employee or any such person who prosecutes a delinquency proceeding.

"***Victim***" means either of the following: (1) a person who is identified as the victim of a crime or specified delinquent act in a police report or in a complaint, indictment, or information that charges the commission of a crime and that provides the basis for the criminal prosecution or delinquency proceeding and subsequent proceedings to which the Crime Victims Rights Law makes reference, or (2) a person who receives injuries as a result of a vehicle, streetcar, trackless trolley, aquatic device, or aircraft accident that is proximately caused by a specified violation or a motor vehicle accident that is proximately caused by a specified violation and who receives specified medical treatment, whichever is applicable.

HISTORY

ACTION	DATE
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