



The Ohio Adam Walsh Act: Implementation Guide for OACCA Members

December 2007

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BACKGROUND

On July 27, 2006, President Bush signed the Adam Walsh Child Protection and Safety Act into law (PL 109-248). In order for Ohio to comply with the new federal law, the Ohio General Assembly must amend the Ohio Revised Code to reflect the new federal requirements.

On February 20, 2007, State Senator Steve Austria introduced Ohio SB 10, the Ohio Adam Walsh Act, to change state law to reflect new requirements. Governor Strickland signed the bill into law on June 30, 2007.

States are given a timeline to implement the federal Adam Walsh Act, which is included in the [Proposed National Guidelines for Sex Offender Registration and Notification](#) issued by the U.S. Department of Justice Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) office on May 30, 2007.

- April 27, 2009: Date for Ohio to submit compliance packets establishing substantial compliance to the SMART Office.
- July 27, 2009: Deadline for substantial implementation of the federal law for Ohio. Implementation by this date prevents a decrease in federal funds.

The comment period for the proposed guidelines ended on August 1, 2007. A final version of the guidelines will be released soon. The current proposed guidelines state that Ohio has within 3 years to fully implement that federal law: July 27, 2009. Section 125(a) of the federal law allows for a 10 percent Byrne Justice Assistance Grant fund *reduction* to Ohio if we fail to substantially implement the requirements by July 27, 2009. Failure to substantially implement will be considered on an individual basis by the U.S. Attorney General's office. Section 124(b) provides for the Attorney General to authorize up to two 1-year extensions of the implementation deadline. Requests for extensions will be considered on a case by case basis.

In Ohio, some of the federal requirements implemented by SB 10 went into effect on the state level on July 1, 2007, while the remaining laws come into effect on January 1, 2008. The following lists when sections of the law go into effect.

July 1, 2007

- 2950.031 Prohibiting offender from establishing residence near school
- 2950.032 Prohibiting offender from establishing residence near school
- 2950.033 Prohibiting offender from establishing residence near school
- 2950.042 Prohibiting offender from establishing residence near school
- 2950.043 Prohibiting offender from establishing residence near school
- 2950.131 Prohibiting offender from establishing residence near school
- 5321.051 Eviction of tenant allowing sex or child victim offenders to occupy premises near school

January 1, 2008

- 2950.01 Definitions
- 2950.02 Exchange or release of relevant information about sex offenders
- 2950.03 Notice of Duty to register and periodically verify information
- 2950.04 Duty to register form
- 2950.041 Personal Registration with sheriff
- 2950.05 Notice of residence address change
- 2950.06 Periodic verification of current residence address
- 2950.07 Commencement date for duty to register
- 2950.08 Authorized inspection of information and records in possession of BCII
- 2950.081 Public inspection of information and records in possession of sheriff
- 2950.10 Notifying victim of sexually oriented offense of registration
- 2950.11 Notice of identity and location of offender in specified geographical notification area
- 2950.12 Immunity from liability in civil action to recover damages for injury
- 2950.13 State registry of sex offenders – duties of Attorney General
- 2950.14 DRC to provide information prior to release
- 2151.23 Jurisdiction of Juvenile court
- 2152.02 Definitions
- 2152.19 Disposition Orders
- 2152.191 Delinquent child subject to sex offender registration and notification law
- 2152.192 Notice that child has committed sexually oriented offense
- 2152.22 Court relinquishes control over child committed to legal custody of DYS
- 2152.82 Juvenile sex offender registrant as part of dispositional order

2152.821 Taking testimony of mentally retarded person or developmentally disabled person accused in juvenile court
2152.83 Juvenile sex offender registration at time of release from secure facility
2152.84 Hearing to review effectiveness of disposition and of any treatment
2152.85 Petition for reclassification or declassification
2152.851 Effect of redesignation of offense

SUMMARY OF LAW

OACCA worked with stakeholders to persuade the Ohio legislature to amend SB 10 from its as-introduced version. The bill summary below from the Ohio Legislative Service Commission includes the following amendments:

- Restricts the Public Registry Qualified Juvenile Offender Registrant (PRQJOR) designation just to juveniles labeled a Serious Youthful Offender (SYO).
- Removes the Super-Retroactivity section of the bill.
- Permits the Ohio Attorney General's office to have authority in the future to draft rules to JCARR to bring Ohio in compliance with the federal Adam Walsh Act. (This would only happen if the U.S. Department of Justice later determines Ohio to be out of compliance.)
- Adds a technical change to the bill regarding whether or not offenders have to register with the county sheriff personally. The amendment now reads "sheriff or designee".

These amendments were central issues in SB 10 that OACCA supported. Below is a very thorough analysis of the full bill by the Ohio Legislative Service Commission – bolded areas are emphasized.

1. *Defines a "public registry-qualified juvenile offender registrant" as meaning a delinquent child upon whom a juvenile court has imposed a serious youthful offender designation and to whom all of the following apply: (1) the person is adjudicated a delinquent child for committing, attempting to commit, conspiracy to commit, or complicity in committing rape, sexual battery if the victim was less than 12 years of age, or the bill's new gross sexual imposition violation (discussed below), (2) the person was 14, 15, 16, or 17 at the time of the act, and (3) a juvenile court judge classifies the person as a juvenile offender registrant, specifies that the person has a duty to comply with the Sex Offender Registration and Notification Law (SORN Law), and classifies the person as a public registry-qualified juvenile offender registrant and that classification has not been terminated. (R.C. 2950.01(N).)*
2. Requires offenders and delinquent children required to register under the SORN Law to register immediately after a sentencing or dispositional hearing held on or after January 1, 2008, requires an offender or child to register a residence address not later than three (instead of five) days after coming into a county to reside or be temporarily domiciled for more than three (instead of five) days, and removes the restrictions against the registration duties applying to "registration-exempt sexually oriented offenses." (R.C. 2950.04(A) (1) and 2950.041(A) (1).)
3. Requires Ohio resident offenders and public registry-qualified juvenile offender registrants who are required to register under the SORN Law to register in the county of employment if the offender or public registry-qualified juvenile offender registrant has been employed in that county for more than 3 (instead of 14) days or for an aggregate period of 14 (instead of 30) or more days in that calendar year and requires such offenders and public registry-qualified juvenile offender registrants who are not Ohio residents to register if the offender or registrant has been employed at any location in Ohio within those time periods. (R.C. 2950.04(A) (2) and (3) (b) and 2950.041(A) (2).)
4. Requires offenders and public registry-qualified juvenile offender registrants to register in another state upon being employed in that other state for more than 3 (instead of 14) days or for an aggregate period of 14 (instead of 30) or more days in that calendar year. (R.C. 2950.04(A) (2) and (3) (b) and 2950.041(A) (2).)
5. Requires public registry-qualified juvenile offender registrants (in the same manner as offenders) to register immediately upon coming into a county in which the registrant attends a school or institution of higher education (R.C. 2950.04(A) (3) (b)).
6. Expands the required content of a SORN Law registration form to additionally require the form to include: (1) any aliases used by the offender or delinquent child, (2) the offender's or child's Social Security number and date of birth, including any alternate Social Security numbers or dates of birth used by the offender or child, (3) if applicable, a statement that the offender or child is serving a term of confinement or is confined in a secure facility, (4) the name of the school, institution of higher education, or place of employment the address of which the offender or public registry-qualified juvenile offender registrant is registering, (5) the license plate number issued by Ohio or any other state of each vehicle the offender or child owns, has registered, operates as a part of employment, or regularly has available to operate, a description of where each vehicle is habitually parked, stored, docked, or otherwise kept and, if required by BCII, a photograph of each of those vehicles, (6) the number of the offender's or child's driver's or commercial driver's license or permit or state identification card issued by

Ohio or any other state, (7) if the offense resulting in the registration duty was committed in another jurisdiction, a DNA specimen from the offender or child, a citation for and the name of the offense resulting in the duty, and a certified copy of a document describing the text of that offense, (8) any other employment information, such as the general area where the offender or child is employed, (9) copies of travel and immigration documents, (10) a description of each professional and occupational license, permit, or registration held by the offender or child, and (11) any email addresses, internet identifiers, or telephone numbers registered to or used by the offender or child. (R.C. 2950.04(B) and (C) and 2950.041(B) and (C).)

7. Requires the Department of Rehabilitation and Correction (DRC), the Adult Parole Authority, and the Department of Youth Services (DYS), by January 1, 2008, to adopt rules to require parole officers to verify within three days of an offender's release that the offender or delinquent child has registered under the SORN Law. (R.C. 2950.042.)
8. Changes some of the time frames within which a registered offender or public registry-qualified juvenile offender registrant must comply with the SORN Law's change of address provisions to: (1) require an offender or public registry-qualified juvenile offender registrant to provide written notice of a change of a registered place of employment address not later than three days after the change, (2) require an offender or public registry-qualified juvenile offender registrant to register a new place of employment address not later than three days after the change, and (3) specify that a notice of a change of address of a school, institution of higher education, or placement of employment must include the name of the new school, institution of higher education, or place of employment. (R.C. 2950.05(A) and (B).)
9. Requires an offender or public registry-qualified juvenile offender registrant who is required to register under the SORN Law to provide written notice, within three days, of any change in vehicle information, email addresses, internet identifiers, or telephone numbers registered to or used by the offender or registrant and requires the sheriff who receives this information to promptly forward the information to BCII. (R.C. 2950.05(D) and (E) (1).)
10. Defines the new SORN Law terms "tier I sex offender/child-victim offender," "tier II sex offender/child-victim offender," and "tier III sex offender/child-victim offender" in such a manner that an offender or delinquent child who is convicted of, pleads guilty to, or is adjudicated a delinquent child for committing a sexually oriented offense or child-victim oriented offense automatically is included within one of those categories for purposes of that Law based on the offense that was committed, without the need for any additional hearing or proceeding. (R.C. 2750.01(E), (F), and (G).)
11. Permits the Attorney General to inspect sealed records for the purpose of determining an offender's or juvenile offender registrant's tier classification. (R.C. 2151.357 and 2953.35.)
12. Changes the frequency with which a registered offender or delinquent child must verify the registered address to: (1) require an offender or child who is a tier I sex offender/child-victim offender to verify a registered address on each anniversary of the initial registration date, (2) require a tier II sex offender/child-victim offender to verify a registered address every 180 days after the initial registration date, and (3) require a tier III sex offender/child-victim offender to verify a registered address every 90 days after the initial registration date. (R.C. 2950.06(B).)
13. Provides a transition period that specifies when an offender or child who has registered under existing law initially must register under the bill's provisions. (R.C. 2950.07(A) (7).)
14. Provides that an offender's duties under the SORN Law continue for the following periods of time: (1) until the offender's death if the offender is a tier III sex offender/child-victim offender, (2) for 25 years if the offender is a tier II sex offender/child-victim offender, or (3) for 15 years (subject to possible removal of the duties by a judge) if the offender is a tier I sex offender/child-victim offender. (R.C. 2950.07(B).)
15. Specifies that the duties of a delinquent child who is subject to the SORN Law continue for the following periods: (1) until the child's death if the delinquent child is a tier III sex offender/child-victim offender or a public registry-qualified juvenile offender registrant (subject to possible reclassification as a tier II or tier I sex offender/child-victim offender if the child is not a public registry-qualified juvenile offender registrant), (2) 20 years if the delinquent child is a tier II sex offender/child-victim offender (subject to possible reclassification as a tier I sex offender/child-victim offender if the child is not a public registry-qualified juvenile offender registrant), or (3) ten years if the delinquent child is a tier I sex offender/child-victim offender (subject to possible termination if the child is not a public registry-qualified juvenile offender registrant). (R.C. 2950.07(B).)
16. Provides that if an offender or delinquent child had a duty to register under the SORN Law prior to January 1, 2008, the registration period of time described in the previous dot point applies to that offender or delinquent child and automatically replaces the period of time for which the offender or delinquent child had a duty to register prior to January 1, 2008. (R.C. 2950.07(C).)
17. Conforms the existing SORN Law's provisions regarding notice to an offender or delinquent child of the offender's or child's duties under that Law to the changes described above. (R.C. 2950.03.)
18. Applies the amended SORN Law and the new offense tiers it enacts to offenders and delinquent children who previously have registered under the SORN Law and to offenders and juvenile offender registrants who committed a sexually oriented offense or a child-victim oriented offense and will be confined on or after December 1, 2007, requires those offenders and children to be notified by a specified official of their duties and new tier classification under the amended SORN Law (generally, as determined by the Attorney General (AG)), and, in most cases, gives them a right to a court hearing to contest the application of the amended SORN Law to them. (R.C. 2950.031 and 2950.032.)

19. Provides that if, on or before July 1, 2007, an offender or delinquent child has a duty to comply with the SORN Law and the offender's or child's duty to comply with that Law is scheduled to terminate on or after July 1, 2007, and prior to January 1, 2008, under the current version of that Law, notwithstanding that scheduled termination of that duty, the offender's or child's duty to comply with the SORN Law does not terminate as scheduled and remains in effect for the following period of time: (1) if the offender or child requests a hearing to contest his or her reclassification described in the preceding dot point, the duty continues at least until the court issues its decision on the request at or subsequent to the hearing and, unless the court's decision terminates the duty or provides a different duration for the duty, it continues subsequent to the decision in accordance with, and for the duration specified in, the reclassification notice, (2) if the offender or child does not request a hearing to contest his or her reclassification, the duty continues in accordance with, and for the duration specified in, the reclassification notice, or (3) if the offender or child does not receive a reclassification notice that is required under the bill, notwithstanding the failure of the offender or child to receive the notice, the offender's or child's duty to comply with the SORN Law continues in accordance with, and for the duration specified in, the SORN Law as it will exist under the bill's changes. (R.C. 2950.033.)
20. Specifies that the provisions described in the previous dot point only apply to a delinquent child if the person is adjudicated a delinquent child for committing a sexually oriented offense or child-victim oriented offense prior to January 1, 2008, and who, under the version of the SORN Law that is scheduled to take effect on that date, will be a public registry-qualified juvenile offender registrant. (R.C. 2950.033(C).)
21. Authorizes a court, upon the request of an offender who is a tier I sex offender/child-victim offender or a child who is a public registry-qualified juvenile offender registrant, upon the expiration of a specified period of time and the making of specified findings, to terminate the offender's or child's duty to comply with the SORN Law's requirements. (R.C. 2950.15.)
22. Modifies the categories of offenders and delinquent children who are subject to the SORN Law's victim notification and community notification provisions so that, except as provided in the next dot point, the provisions apply regardless of when the offense in question was committed regarding: (1) an offender who is a tier III sex offender/child-victim offender, (2) a delinquent child who is a public registry-qualified juvenile offender registrant, and the child's duty to comply with the SORN Law has not been removed by a juvenile judge, (3) a delinquent child who is a tier III sex offender/child-victim offender and is not a public-registry qualified juvenile offender registrant, if the child prior to the bill's effective date is subjected to the notification provisions and the child's duty to comply with the SORN Law has not been removed by a juvenile judge, and (4) a delinquent child who is a tier III sex offender/child-victim offender and is not a public registry-qualified juvenile offender registrant, if the child was classified a juvenile offender registrant on or after the bill's effective date, the court imposed a requirement subjecting the delinquent child to the notification provisions, and the child's duty to comply with the SORN Law has not been removed by a juvenile judge. (R.C. 2950.10(B) and 2950.11(F)(1).)
23. Specifies that the community notification provisions (but not the victim notification provisions) described in the preceding dot point do not apply to an offender or delinquent child if that person would not be subject to the version of the community notification provisions that exist immediately prior to the effective date of these new community notification provisions. (R.C. 2950.11(F)(2).)
24. Expands the SORN Law's community notification provisions to additionally (1) require a sheriff to provide notification of the registration of an offender or delinquent child who is subject to community notification under the SORN Law as described in the previous two dot points to volunteer organizations in which contact with minors or other vulnerable individuals might occur or any organization, company, or individual who requests notification, (2) require each sheriff to allow a volunteer organization or other organization, company, or individual who wishes to receive such a notice regarding a specific offender or delinquent child or all offenders or delinquent children located in the notification area to notify the sheriff by electronic mail or through the sheriff's web site of this election, (3) require the AG to maintain a list of the requests, and (4) provide a qualified immunity to persons who request and receive the notification. (R.C. 2950.11(A)(10) and (J), 2950.12(A)(8), and 2950.13(A)(14).)
25. Expands the SORN Law's community notification provisions to also require the sheriff to provide notification of a public registry-qualified juvenile offender registrant's school, institution of higher education, or place of employment address or addresses. (R.C. 2950.11(B)(2).)
26. Requires the AG to include in the State Registry of Sex Offenders and Child-Victim Offenders any notice of an order issued under the bill that terminates or modifies an offender's or delinquent child's duty to comply with the SORN Law and, for each offender or delinquent child who is listed in the Registry: (1) a citation for, the name of, and the text (at the time of commission) of all of the person's sexually oriented offenses or child-victim oriented offenses that resulted in a registration duty and the date on which they were committed, (2) a statement as to whether the person is a tier I sex offender/child-victim offender, a tier II sex offender/child-victim offender, or a tier III sex offender/child-victim offender for the offense described in clause (1), (3) the community supervision status of the person, (4) the offense and delinquency history of the person, (5) to the extent applicable and available, the BCII tracking number assigned to the person, the FBI number assigned to the person, and any other state identification number assigned to the person, (6) fingerprints and palmprints of the person, (7) a DNA specimen from the person, (8) whether the person has any outstanding arrest warrants, and (9) whether the person is in compliance with SORN Law duties. (R.C. 2950.13(A)(1).)

27. States that the State Registry of Sex Offenders and Child-victim Offenders is not open to inspection by the public or any person other than a specified law enforcement officer, BCII employee, or the Registrar or employee of the Registrar of Motor Vehicles. (R.C. 2950.13(A)(1).)
28. Expands the scope of the Internet Sex Offender and Child-Victim Offender Database to also contain information and material regarding public registry-qualified juvenile offender registrants. (R.C. 2950.13(A)(11).)
29. Specifies that the Internet Database cannot include a victim's identity, any offender's or public registry-qualified juvenile offender registrant's Social Security number, the name of any school or institution of higher education attended by, or of the place of employment of, the offender or public registry-qualified juvenile offender registrant, any tracking or identification number assigned to the offender or registrant, or the offender's or public registry-qualified juvenile offender registrant's driver's or commercial driver's license or permit number or state identification card number issued by Ohio or another state. (R.C. 2950.13(A)(11).)
30. Requires the Internet Database to include the following information relative to an offender or public registry-qualified juvenile offender registrant: (1) a citation for, the name of, and the text (at the time of commission) of all of a person's sexually oriented offenses or child-victim oriented offenses that resulted in a registration duty and the date on which they were committed, (2) a statement as to whether the person is a tier I, II, or III sex offender/child-victim offender for the offenses described in clause (1), (3) community supervision status, (4) the registered address of a school, institution of higher education, or place of employment, (5) the license plate number of each vehicle a registered offender or public registry-qualified juvenile offender registrant owns, has registered, operates as a part of employment, or regularly has available to operate, a description of where each vehicle is habitually parked, stored, docked, or otherwise kept, and, if required by BCII, a photograph of each of those vehicles, (6) a chart describing which sexually oriented offenses or child-victim oriented offenses are included in the definitions of tier I sex offenders/child-victim offenders, tier II sex offenders/child-victim offenders, and tier III sex offenders/child-victim offenders, (7) fingerprints and palmprints, and a DNA specimen, (8) the offender's or public registry-qualified juvenile offender registrant's name and photograph, (9) any outstanding arrest warrants, and (10) SORN Law compliance status. (R.C. 2950.13(A)(11).)
31. Requires the AG to develop software for sheriffs to establish on the Internet a sex offender and child-victim offender database for the public dissemination of information and materials that are public records, are not otherwise prohibited from inclusion, and pertain to registered offenders and public registry-qualified juvenile offender registrants. (R.C. 2950.13(A)(12).)
32. Expands the information that the AG must include on the Internet database the AG operates that enables local law enforcement representatives to remotely search by electronic means the State Registry of Sex Offenders and Child-victim Offenders to also include all of the information and materials the bill requires to be on the State Registry and must include a registered offender's or delinquent child's aliases, name and address of any place of employment, school, institution of higher education, and license plate number of each vehicle the offender or child operates as part of employment or regularly has available for his or her operation. (R.C. 2950.13(A)(13).)
33. Requires the AG to establish and operate a system for the immediate electronic notice of appropriate officials in other states when an offender or delinquent child required to register in the other state registers an address in Ohio or provides a notice in Ohio of a change of address. (R.C. 2950.13(A)(15).)
34. Provides that if on or after the effective date of the bill, the U.S. Attorney General adopts any regulation, guideline, or standard that interprets or applies the Adam Walsh Act to require additional sex offender registration and notification than otherwise required by the SORN Law, as amended by the bill, or notifies Ohio's AG that the bill is not in substantial compliance with the Adam Walsh Act, the AG is required to adopt rules to require additional sex offender registration or notification so that Ohio's SORN Law requirements are consistent with, and not less stringent than, the Adam Walsh Act. (R.C. 2950.131.)
35. Requires a sheriff who establishes an Internet sex offender and child-victim offender database to include in the Internet database a chart describing which offenses are included in the definitions of tier I, II, and III sex offenders/child-victim offenders and a statement identifying the tier in which each registered offender or child is classified. (R.C. 2950.081.)
36. Requires DRC, prior to releasing an offender who was convicted of or pleaded guilty to a sexually oriented offense or child-victim oriented offense, and DYS, prior to releasing a juvenile offender registrant, to provide BCII a physical description of the person and the terms and conditions of release. (R.C. 2950.14(B).)
37. Requires DRC and DYS, by July 1, 2008, to adopt rules pertaining to the certification of sex offender treatment programs, which rules must require the Departments to maintain a list of certified programs that is open to public inspection. (R.C. 2950.16.)
38. Specifies that, if a juvenile court judge classifies a delinquent child a juvenile offender registrant for purposes of the SORN Law and if the delinquent child is a tier III sex offender/child-victim offender who is not a public registry-qualified juvenile offender registrant, the judge **may** impose a requirement subjecting the child to the SORN Law's victim and community notification provisions. (R.C. 2152.82(B) and 2152.83(C)(2).)
- 39. Enacts a mechanism pursuant to which a juvenile court that classifies a delinquent child a juvenile offender registrant determines in a hearing the tier classification of the child unless the court is required to classify the child as both a juvenile offender registrant and a public registry-qualified juvenile offender registrant. (R.C. 2152.831.)**

40. Unless a juvenile offender registrant is a public registry-qualified juvenile offender registrant, retains the authority of a juvenile court to determine that the child no longer is a juvenile offender registrant (i.e., declassify the child), and grants a juvenile court the authority to determine that a child whom the court previously has classified in a particular tier no longer is in that category. (R.C. 2152.84 and 2152.85.)
41. Requires a juvenile court that adjudicates a child a delinquent child for committing a sexually oriented offense to classify the child a juvenile offender registrant, specify that the child has a duty to comply with the SORN Law, and classify the child a public registry-qualified juvenile offender registrant if the child is one described in the first dot point. (R.C. 2152.86.)
42. Requires a court to reclassify a previously classified juvenile offender registrant as a public-registry qualified juvenile offender registrant if the child is one described in the first dot point and generally permits a child whose delinquent act was committed prior to January 1, 2008, to request a hearing to contest the reclassification. (R.C. 2152.86(A)(3) and (D).)
43. Prohibits a person who is or has been convicted of or pleaded guilty to a sexually oriented offense or child-victim oriented offense from living within 1,000 feet of preschool or child day-care center premises in the same manner as such a person is prohibited under current law from living within 1,000 feet of school premises. (R.C. 2950.034.)
44. Permits a landlord to terminate the rental agreement of, and to evict, a tenant who violates the prohibition against living within 1,000 feet of any preschool premises or child day-care center premises in the same manner as is provided under current law for the prohibition against residing within 1,000 feet of any school premises. (R.C. 1923.02.)
45. If a person violates the prohibition against living within 1,000 feet of preschool or child day-care center premises, permits an owner or lessee of real property located within 1,000 feet of those premises or the appropriate chief legal officer of the county, municipal corporation, or township in which those premises are located to bring an action for injunctive relief against the person. (R.C. 2950.034.)
46. Repeals the terms sexual predator, habitual sex offender, child-victim predator, and habitual child-victim offender and the mechanism for determining whether an offender or child is in any of those categories and, in the existing SORN Law provisions that use those terms and subjects persons within those categories to more stringent and additional duties and restrictions; generally, replaces those terms with references to tier III sex offender/child-victim offenders.
47. Eliminates references in the SORN Law and related provisions to "registration-exempt sexually oriented offense," "presumptive registration-exempt sexually oriented offense," and "aggravated sexually oriented offense" (which the bill repeals).
48. Modifies numerous miscellaneous existing provisions that relate to various aspects of the SORN Law to conform the provisions to the changes described in the preceding dot points.
49. Prohibits a person from engaging in the offense of menacing by stalking, abduction, unlawful restraint, or criminal child enticement with a sexual motivation. (R.C. 2903.211(A)(3), 2905.02(B), 2905.03(B), and 2905.05(B).)
50. Makes kidnapping of a victim under 13 a first degree felony in all cases if the offender also is convicted of or pleads guilty to a sexual motivation specification and requires that the offender be sentenced to an indefinite prison term of 15 years to life imprisonment or, if the victim is released in a safe place unharmed, ten years to life imprisonment, to be served under the Sexually Violent Predator Sentencing Law. (R.C. 2905.01(C) and 2971.03.)
51. Requires a court to sentence an offender to an indefinite prison term of 30 years to life to be served under the Sexually Violent Predator Sentencing Law for aggravated murder when the victim is less than 13, the offender is convicted of or pleads guilty to a sexual motivation specification, the offender is not sentenced to death or a term of life imprisonment without parole, and the offender is not otherwise required to be sentenced under that Law as a sexually violent predator. (R.C. 2929.022(A)(2)(b)(ii) and (B)(2), 2929.03, and 2971.03.)
52. Requires a court to sentence an offender to an indefinite prison term of 30 years to life to be served under the Sexually Violent Predator Sentencing Law for murder when the victim is less than 13, the offender is convicted of or pleads guilty to a sexual motivation specification, and the offender is not otherwise required to be sentenced under that Law. (R.C. 2929.02(B) and 2971.03.)
53. Expands the offense of gross sexual imposition to prohibit a person from knowingly touching the genitalia of another who is less than 12 years of age (whether or not the offender knows the age of that person), when the touching is not through clothing and the touching is done with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desires of any person. (R.C. 2907.05(B).)
54. Provides that the new gross sexual imposition prohibition described in the previous dot point is a felony of the third degree with generally a presumption for a prison term but a mandatory prison term in specified circumstances. (R.C. 2907.05(C)(2).)
55. Modifies the definition of "harmful to juveniles" as used in the Sex Offenses Law to include any material or performance, when considered as whole, appeals to the prurient interest of juveniles *in sex*. (R.C. 2907.01(E).)

AFFECTS ON OHIO'S PRIVATE AGENCIES

The Ohio Adam Walsh Act will affect your agency through new state laws. The laws will take full effect in January 1, 2008. SB 10 replaces the JSORN system with a tiered classification system. The following includes a list of offenses that are included in each tier of the new system, which will take full effect January 1, 2008.

Tier 1

1. 2907.07 Importuning
2. 2907.04 Unlawful Sexual Conduct with a Minor (when it is non-consensual and offender less than 4 years older than victim, and the offender is not previously convicted of 2907.02, 2907.03, or 2907.04, or former 2907.12 (FSP))
3. 2907.08 Voyeurism
4. 2907.06 Sexual Imposition
5. 2907.05 (A)(1)-(3), (5) Gross Sexual Imposition
6. 2907.323 (A)(3) Illegal Use of a Minor in Nudity-oriented Material or Performance
7. 2905.05 (B) Child Enticement with sexual motivation {new under SB 10}
8. 2907.32 Pandering Obscenity
9. 2903.211 (A)(3) Menacing by Stalking with sexual motivation {new under SB10}
10. 2905.03(B) Unlawful Restraint with sexual motivation {new under SB 10}
11. Includes an attempt, complicity or conspiracy to commit any of these offenses.
Child-victim offender not in Tier II or III.

Tier 2

1. 2907.21 Compelling Prostitution
2. 2907.321 Pandering Obscenity Involving a Minor
3. 2907.322 Pandering Sexually Oriented Material Involving a Minor
4. 2907.323 (A)(1) and (2) Illegal Use of a Minor in Nudity-oriented Material or Performance
5. 2907.04 when offender is at least 4 years older, or when the offender is less than 4 years older and has prior conviction for 2907.02, 2907.03, 2907.04, or former 2907.12 (FSP)
6. 2907.05 (A)(4) Gross Sexual Imposition victim under 13
7. 2919.22 (B)(5) Child Endangering
8. 2905.01 (A)(1)-(3), (5) Kidnapping with sexual Motivation
9. 2905.01 (A)(4), victim over 18
10. 2905.02 (B) Abduction with sexual motivation {new under SB 10}
11. Any sexual offense that occurs after the offender has been classified as a Tier I offender.
12. Includes an attempt, complicity or conspiracy to commit any of these offenses
13. Pre-AWA Habitual offenders, unless re-classified after hearing under ORC 2950.031 or 2950.032

Tier 3

1. 2907.02 Rape
2. 2907.03 Sexual Battery
3. 2903.01 Agg. Murder with sexual motivation
4. 2903.02 Murder with sexual motivation
5. 2903.04(A) Unlawful Death or termination of pregnancy as a result of committing or attempt to commit a felony with sexual motivation
6. 2905.01 (A)(4) Kidnapping of minor to engage in sexual activity
7. 2905.01 (B) Kidnapping of minor, not by parent
8. 2907.05 (B) {New section of GSI that involves touching of the genitals on the skin}
9. 2903.11 Felonious Assault with sexual motivation
10. Pre-AWA predators unless re-classified after hearing under ORC 2950.031 or 2950.032
11. Any sexual offense that occurs after the offender is classified as a Tier II or III offender.
12. Automatic classification after SVP specification 2971.03
14. Includes an attempt, complicity or conspiracy to commit any of these offenses

The following includes the new registration and notification requirements that will take effect in January 1, 2008. The left column describes the old JSORN system requirements, while the right column describes the requirements of the new (effective in January 1, 2008) Adam Walsh Act tiered system.

Ohio JSORN Law <i>Ends December 31, 2007</i>	Ohio Adam Walsh Act Tier System <i>Begins January 1, 2008</i>
<p>Qualified offenses - there exists a different list of offenses between juvenile offenders and adults - excludes corruption of a minor; pandering and child pornography only if the offender is 4 or more years older than the victim</p>	Same list of offenses apply to juveniles and adults
Applies to juveniles 14 or older whose offense was committed on or after 1-1-2002	Applies to juveniles 14 or older whose offense was committed on or after 1-1-2002
<p>Initial Classification as Juvenile Offender Registrant a. Discretionary Classification for Youthful First Offender b. Automatic Classification for Older First Offender and Repeat Offenders</p>	<p>Initial Classification as Juvenile Offender Registrant (Non-PRQJORs) a. Discretionary Classification for Youthful First Offender b. Automatic Classification for Older First Offender and Repeat Offenders</p>
<p>Sexual Predator Classification Hearing - if not labeled a predator, will be labeled sexually oriented offender or habitual if prior adjudication</p>	<p>Tier Classification Hearing (Non-PRQJORs) a. Based upon offense as described in ORC 2152.831 (see pages 2-3)</p>
<p>Registration Periods (Juveniles and adults) Sexually Oriented Offender 10 yrs Child Victim Oriented Offender 10 yrs Habitual Sexually Oriented Offender 20 yrs Habitual Child Victim Oriented Offender 20 yrs Sexual Predator Life Child Victim Predator Life</p>	<p>Registration Periods Tier I Sex or Child Victim Offender 10 yrs Tier II Sex or Child Victim Offender 20 yrs Tier III Sex or Child Victim Offender Life {adults, Tier I is 15 yrs and Tier II is 25 yrs}</p>
<p>Reclassification/Declassification a. Mandatory hearing at end of disposition - if initial classification was automatic, court may reclassify to less restrictive, but must still be registrant - if initial classification was discretionary, court may reclassify or declassify b. Petition for reclassification or declassification after mandatory hearing</p>	<p>Reclassification/Declassification (Non-PRQJORs) a. Mandatory hearing at end of disposition - if initial classification was automatic, court may reclassify to lower Tier, but must still be registrant - if initial classification was discretionary, court may reclassify or declassify - clear and convincing proof standard for reclassification and declassification b. Petition for reclassification or declassification after mandatory hearing</p>
<p>Website O.R.C. 2950.081 (B), permits sheriffs, who operate their own county sex offender website, are permitted to post the registration information on juvenile sex offenders who were adjudicated delinquent for Rape, or Murder, Aggravate Murder or Kidnapping committed with a sexual motivation.</p>	<p>Website Registration information for PRQJORs to be posted on the state's public website administered by BCI&I (eSORN). PRQJOR offenses are Rape, Sexual Battery, new subsection of GSI, and Murder, Aggravated Murder or Kidnapping committed with a sexual motivation; or any attempt, conspiracy to commit or complicity in committing any of these offenses.</p>
<p>Community Notification a. Juveniles labeled predator are automatically subject to community notification requirements b. Court has discretion to impose community notification on habitual offenders</p>	<p>Community Notification a. PRQJORs are automatically subject to community notification b. Other Tier III juvenile offenders, court has discretion to impose community notification requirements</p>
<p>Victim Notification Victim entitled to notification, if so requested, when offender is labeled a predator or a habitual that is subject to community notification</p>	<p>Victim Notification Victim entitled to notification, if so requested, when offender is PRQJOR, or a Tier III offender that is subject to community notification</p>

<p>(PRQJR Classification Did Not Exist Until January 1, 2008)</p>	<p>PRQJORS</p> <ul style="list-style-type: none"> a. SB 10 creates new section, ORC 2152.86, dealing with <i>public registry qualified juvenile offender registrants</i> (PRQJOR). b. Applies to a juvenile 14 or older at the time of committing the act and the juvenile is adjudicated delinquent and <i>classified as a serious youth offender (SYO)</i>, for committing, attempting to commit, conspiring to commit or complicity in committing any of the following acts: <ul style="list-style-type: none"> 1) Rape (ORC 2907.02) 2) Sexual Battery (ORC 2907.03) 3) Gross Sexual Imposition (ORC 2907.05 (B)) (This is GSI on skin of genitalia when the victim is under 12 with intent to abuse, humiliate, harass, degrade, arouse, or gratify the sexual desire of any person) 4) Aggravated Murder with sexual motivation (ORC 2903.01) 5) Murder with sexual motivation (ORC 2903.02) 6) Kidnapping with sexual motivation (ORC 2905.01) c. Mandatory classification at the time of disposition, or, in released from DYS after January 1, 2008 and has not yet been classified. d. PRQJOR is automatically classified as a Tier III offender with registration and notification requirements as adult Tier III offenders and is also required to be posted on the Ohio Attorney General and County Sheriff's websites. e. PRQJORS whose offenses were committed <i>after</i> January 1, 2008, are <i>not</i> eligible for reclassification or declassification under 2152.84 or 2152.85. f. Court does <u>not</u> have the option of the discretionary tier classification hearing under 2152.831 that occurs at disposition. g. May petition for reduction of registration period after 25 years if the individual maintains clean record; effectively declassifies.
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New Ohio Administrative Code rules will be written by the Ohio Attorney General and Ohio Department of Youth Services in conjunction with stakeholder involvement to implement SB 10. The Ohio Attorney General's office is authorized to write Ohio Administrative Code rules through the state legislature's Joint Committee on Agency Rule and Review (JCARR) process to bring Ohio into full compliance *if* the U.S. Department of Justice SMART office determines that Ohio is *out* of compliance with the federal Adam Walsh Act. Moreover, ODYS must draft rules to certify and inspect all sex offender treatment programs. ODYS must also draft rules for parole officers to verify that released offenders register as required by their tier classification.

The Ohio Adam Walsh Act changes the ability of juvenile court judges to have discretion in determining the appropriate level of registration and notification requirements for juvenile offenders. Classification is now based on offense only, in which the tier level that the offense is categorized in is supposed to equate with the risk level of that juvenile. In other words, juvenile court judges are no longer able to impose SORN requirements based on the expected risk that juveniles will pose to communities.

REGISTRY INFORMATION

Information to be included in the Ohio online sex offender registry (www.ag.state.oh.us/citizen/esorn.asp) provided by the offender:

- Names and Aliases (first, middle, last) Nicknames, Internet Identifiers, Telephone Numbers, Email/Instant Message Address
- Social Security Number
- Residence, Lodging, and Travel Information
 - Residence Address
 - Other Residence Information (If homeless)
 - Temporary Lodging Information

Information included in the registry to be provided by the county sheriff's office:

- Identifying numbers:
 - Bureau of Criminal Identification and Investigation (BCII) # (if assigned)
 - FBI # (if assigned and BCII is aware)
 - Any other state identification # assigned which BCII is aware
- Physical Description of Juvenile
- Text or Registration Offense as that offense existed at the time of conviction or a link to database that sets forth that offense
 - Date
 - Case number
 - State of conviction
 - County of conviction
 - ORC offense Number and Title
 - Victim information age range, gender, handicap flag, comments
 - Statement as to what tier the offender is
- Criminal/Delinquency History of the person, as determined from information gathered by BCII, Ohio Department of Rehabilitation and Corrections (ODRC), or ODYS and Community Supervision Status
- Current Photo of Juvenile
- Fingerprint and Palm Print
- DNA Sample
- Driver's License Information
 - All information is stored except: issued date, expires on date, endorsements, restrictions, class, type and two part details.
 - Can look up drivers license information on BMV or OHLEG SE

Registration Periods

Full registration time period (unless subject to reduction) is as follows:

- Adults
 - 15 years if the offender is a Tier I sex offender
 - 25 years if the offender is a Tier II sex offender; and
 - The life of the offender, if the offender is a Tier III sex offender
- Juveniles
 - 10 years if the offender is Tier I sex offender
 - 20 years if the offender is Tier II sex offender
 - The life of the offender, if the offender is a Tier III sex offender

Failure to Register Penalties

	Original and Most Severe SORN Offense	Failure to Register Penalty
First Penalty for Failure to Register	F1, F2, or F3 felony offense, or murder or aggravated murder	Felony Conviction (of same level as the most severe offense that led to registration)
	F4 Felony	F4 Felony Conviction (6 - 18 mo. prison)
	F5 Felony	F4 Felony Conviction (6 - 18 mo. prison)
	Misdemeanor	F4 Felony Conviction (6 - 18 mo. prison)
Subsequent Penalties for Failure to Register	F1, F2, or F3 felony offense, or murder or aggravated murder	Felony of same degree as most serious underlying offense. Mandatory prison sentence not less than 3 years.
	F4 Felony	F3 Felony (1 - 5 yrs prison). Mandatory prison sentence not less than 3 years.
	F5 Felony	F3 Felony (1 - 5 yrs prison). Mandatory prison sentence not less than 3 years.
	M1 Misdemeanor	F3 Felony (1 - 5 yrs prison). Mandatory prison sentence not less than 3 years.
	Misdemeanors other than M1	F3 Felony (1 - 5 yrs prison). Mandatory prison sentence not less than 3 years.

Re-Classification

Juvenile sex offenders may receive review hearings in which juvenile court judges may classify-down tiers that juvenile sex offenders fall in; in certain circumstances judges may remove classification. Juvenile sex offenders may petition the court three years after the completion of disposition hearing to reclassify; following this, juvenile sex offenders may petition the court after another three years; following this, every five years.

For juveniles that fall in to Tier I, II and III, but are not PRQJORs, the current practice remains:

- Mandatory hearing at end of disposition
 - If initial classification was automatic, court may reclassify to lower Tier, but must still be registrant
 - If initial classification was discretionary, court may reclassify or declassify
 - Clear and convincing proof standard for reclassification and de-classification
- Petition for re-classification or declassification after mandatory hearing

However, if you are a Tier III PRQJOR, a new system is imposed: the full registration period shall be reduced as described for a sex offender who maintains a clear record defined as:

- No criminal offenses, except minor traffic offense
- Completed sex offender treatment program
- Paid financial sanctions
- Period of clean record in the case of a Tier III PRQJOR is 25 years

In Person Verification

A sex offender shall appear in person, allow the jurisdiction to take a current photograph, and verify the information in each registry in which that offender is required to be registered not less frequently than:

- Each year if the offender is Tier I
- Every 6 months if the offender is Tier II
- Every 3 months if the offender is Tier III

Duty to Notify Sex Offender

- The official of the jail, workhouse, state correctional institution, or other institution where the juvenile is confined is to notify the sex offender of the duty to register prior to release
- If the juvenile is not confined, the judge shall provide the offender information regarding the duty to register at sentencing
- If the offender or juvenile is re-classified by the Attorney General's Office, either the Attorney General, ODRC or ODYS will provide notice as outlined in 2950.031 and 2950.032.

The notice shall be on a form proscribed by BCII. Offender or juvenile required to read and sign; if unable to read, official will read to the offender or juvenile and indicate that said form was explained to them.

Public Access to Juvenile Sex Offender Registry

Information on juvenile sex offenders will remain confidential and not listed on public websites unless the juvenile is convicted in adult court or the juvenile is labeled a tier III PRQJOR. For those juveniles that fall into either of those groups, the following applies:

BCII must establish and operate on the internet a sex offender and child victim offender database that contains registry information (name, photo, residence address, place of employment address, school address, and designation). The database shall be searchable by offender name, by county, by zip code, and by school district and accessible to the public.

The bureau shall not include on the database any offender's or PRQJOR's:

- Social security number
- The name of any school or institution of higher education attended by any offender or PRQJOR
- The name of the place of employment of any offender or PRQJOR
- Any tracking or identification number described in division (A)(1)(f) of this section
- Victim's identity
- Any information described in division (C)(7) of section 2950.04 or 2950.041 of the ORC

Community Notification

The only juveniles that are subject to community notification requirements are juveniles convicted in adult court or juveniles labeled a tier III PRQJOR. For those two groups of juveniles, the sheriff is required to send notice of registered sex offenders within five days to the following:

- Any occupant of each residential unit that is located within one thousand feet of the offender's or delinquent child's residential premises, that is located within the county served by the sheriff, and that is not located in a multi-unit building
- Any occupant of a multi unit building in which the offender or delinquent child resides that share a common hallway with the offender or delinquent child, defined as if the entrance door to the occupant's unit is located on the same floor and opens into the same hallway as the entrance door to the unit the offender or delinquent child occupies
- The building manager, or the person the building owner or condominium unit owners association authorizes to exercise management and control, of each multi-unit building that is located within one thousand feet of the offender's or delinquent child's residential premises, including a multi-unit building in which the offender or delinquent child resides, and that is located within the county served by the sheriff. In addition to notifying the building manager or the person authorized to exercise management and control in the multi-unit building under this division, the sheriff shall post a copy of the notice prominently in each common entryway in the building and any other location in the building the sheriff determines appropriate. The manager or person exercising management and control of the building shall permit the sheriff to post copies of the notice under this division as the sheriff determines appropriate. In lieu of posting copies of the notice as described in this division, a sheriff may provide notice to all occupants of the multi-unit building by mail or personal contact; if the sheriff so notifies all the occupants, the sheriff is not required to post copies of the notice in the common entryways to the building. Division (D)(3) of this section applies regarding notices required under this division.

- All additional persons who are within any category of neighbors of the offender or delinquent child that the attorney general by rule adopted under section 2950.13 of the Revised Code requires to be provided the notice and who reside within the county served by the sheriff;
- The executive director of the public children services agency that has jurisdiction within the specified geographical notification area (school district of registrant residence) and that is located within the county served by the sheriff
- The superintendent of each board of education of a school district that has schools within the specified geographical notification area (school district of registrant residence) and that is located within the county served by the sheriff
- The principal of the school within the specified geographical notification area (school district of registrant residence) and within the county served by the sheriff that the delinquent child attends
- If the delinquent child attends a school outside of the specified geographical notification area (school district of registrant residence) or outside of the school district where the delinquent child resides, the superintendent of the board of education of a school district that govern the school that the delinquent child attends and the principal of the school of that the delinquent child attends
- The appointing or hiring officer of each chartered nonpublic school located within the specified geographical notification area (school district of registrant residence) and within the county served by the sheriff or of each other school located within the specified geographical notification area (school district of registrant residence) and within the county served by the sheriff and that is not operated by a board of education as noted above
- Regardless of the location of the school, the appointing or hiring officer of a chartered nonpublic school that the delinquent child attends
- The director, head teacher, elementary principal, or the site administrator of each preschool program that is located within the specified geographical; notification area and within the county served by the sheriff
- The administrator of each child day care center or type A family day care home that is located within the specified geographical notification area (school district of registrant residence) and within the county served by the sheriff, and the provider of each certified type B family day care home that is located within the specified geographical notification area (school district of registrant residence) within the county served by the sheriff
- The president or chief administrative officer of each institution of higher education that is located within the specified geographic notification area and within the county served by the sheriff, and chief law enforcement officer any that serves the institution.
- Volunteer organizations in which contact with minors or other vulnerable individuals might occur or any organization, company, or individual who requests notification as provided in division (J) of this section.
- Representative Seitz Amendment: for those convicted post SB 10, sheriffs not required to send community notification in writing. Posting on website is sufficient (ORC §2950.11).

CONCERNS*

Potential Anti-Therapeutic Outcomes for Juveniles

- Preventing the labeling of juveniles, which could limit their reentry success or participation in social organizations or leisure activities, or could limit their access to employment and education
- Maintaining enough good placement options for juveniles
- There could be disincentives for guilty pleas, which could force more victims to the stand, and the increase expense of additional trials. Pleas to non-sex offenses may deny them access to, or impede, needed treatment. This could also lead therapists into “collusion” and secret keeping with youth so as to prevent lifetime or near lifetime registration.
- Affixing a permanent (or near permanent) sex offender label could communicate the message that attempts to change behavior are useless
- May inhibit disclosure of abuse within the household or family

Potential Anti-Therapeutic Consequences As Viewed by Mental Health Professionals

- Support and treatment for victims may not increase
- The new SORN system could create a false sense of security in communities
- Potential of vigilantism against offenders
- Potential of stigmatization spreading to family, friends and those trying to help juvenile with re-entry
- Concern that notification will exacerbate conditions associated with recidivism

Potential Anti-Therapeutic Consequences As Viewed by Offenders

- Most regard disclosure of personal information to be unfair (Tewksbury, 2005)
- Social stigmatization, loss of relationships (>50%), loss of employment (>30%), housing difficulties (>30%), verbal (common) and physical assault (rare) (Tewksbury, 2005; Levenson & Cotter, 2005)
- Increased sense of fear, shame, social isolation and hopelessness
- Very divided on whether notification will affect their likelihood of recidivating (43% completely agreed, while 38% completely disagreed) (Tewksbury, 2005)
- There will definitely be a great difficulty to find housing (64%) (Tewksbury, 2005)

As Viewed by Probation/Parole Officers and Law Enforcement

- There could be logistical problems with notification and registry integrity (Zevitz and Farkas, 2000)
- There could be a large amount of time invested in creating supervision networks, arranging transportation and securing employment

* Some sources for this section are cited from Fraser, Ian. "SB and Youth Who Have Sexually Abused: A Therapeutic Jurisprudence Conceptualization". November 2, 2007. Presented at the OACCA First Friday Training on Implementation of the Adam Walsh Act, November 2, 2007.

Concerns with the Proposed Federal Guidelines for Sex Offender Registration and Notification and the Implementation of the Federal Adam Walsh Act

After the U.S. Congress passed the federal Adam Walsh Act, the U.S. Department of Justice was authorized to draft federal rules (for the Code of Federal Regulations) to implement the requirements of the Adam Walsh Act to states. *Draft* guidelines were first made available in the spring of 2007 by the U.S. Department of Justice SMART office to guide the implementation in states. The comment period for the draft guidelines ended in August 2007. OACCA joined with many other states and national leaders to provide comments outlining several areas of concern (see below). The DoJ SMART office has yet to release its *final* version of the Adam Walsh Act guidelines. Despite this, Ohio went ahead and implemented the federal requirements of the Adam Walsh Act without the use of the finalized guidelines. Here is our letter:

U.S. Department of Justice
Office of Sex Offender Sentencing, Monitoring, Apprehending, Registration, and Tracking (SMART)
Director Laura L. Rogers, Esq.

Dear Ms. Rogers,

As the state association for children, youth, and family serving agencies in Ohio, the Ohio Association of Child Caring Agencies (OACCA) strongly supports the intent of the federal Adam Walsh Act. We are proud that Members of the U.S. Congress and Department of Justice spent considerable time and effort to craft a better and more effective registration and national database system for sexually oriented offenders in our country. In this letter, we identify several areas of concern.

There is nothing more important or challenging than protecting our nation's youth. The Adam Walsh Act's intention is to do just that. However, there is a lot of confusion in states as to how to implement the federal law. In Ohio, when legislators first drafted its Adam Walsh implementation bill, stakeholders from across the state were deeply disturbed by some of the provisions and their offense based consequences for ALL juvenile sexually oriented offenders. The federal guidelines from the U.S. Department of Justice SMART office must be clear and straight-forward about where states have flexibility and where they do not.

We strongly encourage your office to be flexible on the definition of "substantial compliance". It is our view that strict compliance will actually harm youth and families by discouraging reporting of crimes committed by juveniles and thus leaving many offenders and victims without opportunities for treatment, justice, and recovery. As proposed, the federal guidelines will prevent youth from receiving effective treatment. When Ohio's AWA implementing legislation was introduced, the early draft imposed extremely harsh restrictions on first-time juvenile offenders. Many parents described the restrictions as harsh enough to convince them never to report a sexually oriented offense in their family.

We hope you agree that juvenile sex offenders are a different population than adult sexual offenders. We need different tools to identify juvenile sex offenders, provide treatment to them and their victims, and keep them and our communities safe.

The draft federal guidelines state that “if the offender is 14 years of age or older at the time of the offense and the offense adjudicated was comparable to or more severe than aggravated sexual abuse ... or was an attempt or conspiracy to commit such an offense” the child should be listed as a tier 3 offender. When implemented by states, “aggravated sexual abuse” is not always directly compatible with definitions in the state legal code. In Ohio, legislators used “gross sexual imposition” to equate with “aggravated sexual abuse”. This becomes problematic in that “gross sexual imposition” is a broader offense that includes the slapping of someone’s buttocks on top of their clothing. The federal guidelines should clearly define how states should incorporate “aggravated sexual abuse” into their state codes.

States like Ohio are struggling to comport their juvenile justice statutes within the tier structure of the AWA. For example, in Ohio, if a youth has been adjudicated for gross sexual imposition for improperly touching a sibling, that youth could end up on tier two or three depending on the nature of the contact RATHER than the risk of re-offending. As a result, communities become no safer than they were before. The adjudicated youth in that scenario needs treatment, which is proven to be up to 96% effective. The victim in that case also should receive treatment. When a criminal penalty (i.e. “public safety” requirement) is required that includes registration on public websites for juveniles adjudicated for gross sexual imposition, what parent would actually take the steps to prosecute their child? Why put parents in the position of choosing whether to report their child’s offending behavior so he and the victim are able to receive professional treatment, knowing it will likely involve lifetime public registration and notification requirements, versus not reporting at all, leaving the offender and victim without the treatment they need to be healthy individuals.

Youth should not appear on the public SORN website unless they have been tried as adults in adult court and convicted of offenses that make them a real threat to communities. A major reason why youth should not have their personal information on public websites is because it will weaken their recovery during treatment and will subject them to harassment and abuse. From the perspective of communities, ‘sex offenders’ listed on the public SORN website are threats, regardless if they are youth or adults. Moreover, there is reason to believe that a public registry of juvenile sexually oriented offenders would be utilized by pedophiles as potential victims. Creating a public list of names, photos, home addresses, schools attended, automobile information, and other identifying information violates the privacy of youth and families and serves no useful purpose. It will hamper the juvenile’s ability to pursue work and educational opportunities, and it will block the juvenile’s ability to be placed in residential treatment facilities.

Finally, we believe that state law, even under the AWA, should allow for judicial discretion in adjudicating juvenile sex offenders and to determine whether they actually pose a threat to the community. Judges serve an integral role in determining on a case-by-case basis what threat juvenile offenders may pose. If judges are unable to consider the level of threat, too many juveniles will be listed on the public websites that pose a threat to no one, which dilutes the effectiveness of registration and community notification. Judges should be permitted to fulfill their role in these cases and be allowed to retain their discretion.

We hope that the U.S. Department of Justice SMART office carefully considers the comments in this letter to craft clear federal guidelines that provide states the flexibility needed to implement this historic law. Without clear federal guidelines in place, the Ohio legislature had an extraordinarily difficult time implementing the Adam Walsh Act. Several parents of youth that are receiving treatment for offending someone within their family testified, in tears, to give their child a chance in life by not placing them on the public SORN website. Please avoid imposing ‘one-strike, you’re out’ policies on juvenile sex offenders and their families, otherwise these families will be further victimized, state-by-state, as their state implements the Adam Walsh Act.

If you have any questions or need further explanation of information in this letter, do not hesitate to contact our association directly at mmecum@oacca.org and (614) 461-0014. Thank you for your time and have a great day.

Sincerely,

The Ohio Association of Child Caring Agencies

FREQUENTLY ASKED QUESTIONS (FAQ)

If a juvenile turns 18, does his previous tier I, II, or III-qualified adjudication(s) still appear on his criminal record or his public registry if he is a PRQJR?

When a juvenile turns 18 (or 21), that has no effect on their classification, and the underlying offense for which they have to register will still appear on their juvenile record and in their sex offender registration documents and online profile (for PRQJORS).

Who is responsible for registration of juvenile sex offenders that are foster children?

The agency that holds legal custody of the child; either a PCSA or a PCPA

Do juvenile's registration requirements change once the juvenile becomes an adult? Or will it only change if the offender re-offends as an adult.

A juvenile's registration requirements do not change at all once they become an adult. If they commit another sex offense once they are an adult, they will be tried as an adult and classified as an adult. Also, if they fail to register properly after they turn 18, they will be prosecuted as an adult for failure to register, even though they're registering for a juvenile offense.

What are considered acceptable forms for photo identification for registration of juveniles?

Juveniles have to submit a photo with their registration form, most likely a passport size and type of photo. The sheriff's office will also take a photo of each registrant with a digital camera.

A child's Social Security number is required at registration; does this include the actual Social Security card?

Juveniles should not need their actual Social Security card. Each sheriff's office has forms that the person registering has to pick up, fill out, and submit to the sheriff's office (along with their photo). They should just have to fill in their Social Security number on that form.

Registration must occur with the sheriff in the county of a child's temporary residence within 3 days of entering that county. Does this apply to Respite Care stays? What about AWOLs?

Anytime someone is going to reside or be domiciled (essentially, if you're sleeping there at night) for more than 3 days in a county other than the one in which they reside permanently, they need to register with that county sheriff, regardless of the reason they're there. If a juvenile is not sure whether they need to register, it may be wise to do it anyway. The penalties are extremely severe for failure to register.

Failure to register penalties for foster children in the custody of a county applied to whom: the child, the custodial agency, the foster parents, or no one?

The child will always be eligible to be charged with failure to register, and they are the ones who will receive the most severe penalties. Additionally, parents/guardians/custodians can be charged with contributing to the delinquency of a minor whenever a kid does not register (this is a misdemeanor). However, for foster children who are in the custody of an agency (not a person), the question of who the criminal penalty also applies to is unclear. It may depend on how each county prosecutor interprets the statute, which may be interpreted differently in different counties, until some of those cases start working their way through appeals courts.

If I feel that a foster youth has been classified as a sex offender in the incorrect tier category or as a PRQJR incorrectly, what should I do?

It is possible that the Ohio Attorney General's office could accidentally classify a juvenile in the wrong tier or as a PRQJR when they should not have. If you feel that the juvenile is classified wrong, immediately contact the [Ohio Attorney General's office](#) and [Ohio Public Defender's office](#) as well.

- For additional FAQs, see the Ohio Public Defender's Adam Walsh Act [website](#) which has a lot of resources.
- For information on sample motions and lawsuit challenges, the Ohio Public Defender's [website](#) has additional resources.