



COUNTY ADVISORY BULLETIN

CAB

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SEX OFFENDER REGISTRATION & NOTIFICATION (HOUSE BILL 180)

INTRODUCTION

House Bill 180, sponsored by Representative Jeff Jacobson, established stringent prison sentences for sexually violent predators, altered Ohio's existing sex offender registration statute, and established a community notification process for sexual predators and certain habitual sex offenders. The bill also required the Attorney General's Office to promulgate rules for sex offender registration and notification. The rules were recently approved by the Joint Commission on Agency Rule Review (JCARR) on June 3, 1997. The sentencing provisions of the bill were effective on January 1, 1997, while the registration and notification provisions will become effective on July 1, 1997. This CAB will provide a general overview of the provisions of the bill and the registration and notification rules adopted by the Attorney General's Office, and includes a summary of the potential fiscal effects and liability concerns for counties.

SENTENCING & DESIGNATING SEX OFFENDERS

Sex offenders convicted of a sexually violent offense with a sexually violent predator specification are considered sexually violent predators and may be sentenced to life without parole or to an indefinite term of imprisonment ranging from a two year minimum to a maximum term of life. Sexually violent predators must serve the entire term in prison but may be released from prison if the sentencing court determines that the offender would not pose a substantial risk of physical harm to the public. However, these offenders would remain under the jurisdiction of the court and could be returned to prison for violating conditions of release imposed by the sentencing court. Offenders determined by the sentencing court to be sexually violent predators for the purposes of sentencing are also considered to be "sexual predators" which subjects them to lifetime registration and community notification requirements described below.

Prior to sentencing, the court must determine whether the offender is a “sexual predator” or a “habitual sex offender”. Generally “sexual predators” are persons who have been convicted of certain sexually oriented offenses, such as rape, and are likely to engage in additional sexually oriented offenses in the future. “Habitual sex offenders” are persons who have committed more than one “sexually oriented offense”. A “sexually oriented offense” generally includes sex offenses ranging from violent offenses, such as rape, to lower level offenses such as corruption of a minor.

“Sexual predators” are subject to registration and notification requirements for life and must verify residence address with the county sheriff every 90 days. “Habitual sex offenders” are subject to registration requirements for 20 years and must verify residence address with the county sheriff annually. “Habitual sex offenders” could be subject to community notification requirements at the discretion of the sentencing court. All other sex offenders are subject to registration requirements for 10 years with annual address verification, but are NOT subject to community notification.

SEX OFFENDER’S DUTY TO REGISTER WITH COUNTY SHERIFF

The official in charge of the releasing institution (i.e. jail, prison), their designee, or the judge if no term of imprisonment or confinement is imposed, must require the offender to read and sign a form prescribed by the Bureau of Criminal Identification and Investigation (BCII) stating the offender's duty to register a residence address, any change of address, and the duty of the offender to periodically verify his residence address with the county sheriff. In addition to other information prescribed by BCII, the form must include a statement as to whether the sentencing judge determined the offender to be a sexually violent predator or habitual sex offender (if applicable). Copies of this form must be provided to the offender, the sheriff of the offender’s expected county of residence, and BCII.

The official must also determine and send to the sheriff of the offender’s expected county of residence and BCII the offender's name, identifying factors, expected future residence address, criminal history, photograph and fingerprints. BCII is responsible for forwarding fingerprints and conviction data to the FBI.

REGISTRATION & VERIFICATION PROCESS FOR SEX OFFENDERS & SHERIFF

Generally, sex offenders must register with the county sheriff within seven days of establishing residence in the county. Furthermore, the offender is required to periodically verify residence address in person with the county sheriff, who must forward both registration and verification information to the state registry of sex offenders to be maintained by BCII. The following bullets highlight this procedure:

Registration

- All individuals convicted of a sexually oriented offense are required to register with the sheriff of the county in which the offender establishes residence within seven days of establishing residence.
- Offenders required to register shall personally obtain from the sheriff's office a registration form, complete the form, and sign and return it to the sheriff, who signs and forwards the form to BCII. The registration form must include the offender's current residence address; the name and address of the offender's employer; a photograph of the offender (taken by the sheriff); and any other information required by BCII.
- If the offender is designated a sexual predator or habitual sex offender the registration must include a specific declaration to that effect. Offenders must also register their motor vehicle license plate number with the county sheriff.

Verification

- *Sexual Predators:* offenders required to verify address with sheriff every 90 days for offender's lifetime unless a judge terminates the sexual predator designation.
- *Habitual Sex Offenders:* offenders required to verify address with sheriff annually for twenty years.
- *Other Sex Offenders:* all other sex offenders must verify address with sheriff annually for 10 years.
- Offenders required to verify their residence address must do so by personally appearing before the sheriff no earlier than 10 days prior to the date required for verification (every 90 days or annually depending on designation). The verification form must include: the offender's current residence address; the name and address of the offender's employer; and any other information required by BCII. A copy of the form must be sent to BCII.
- If the offender fails to verify current residence address on the anniversary date, the sheriff must send a written warning to the offender informing them that failure to verify residence address within 7 days will result in arrest and prosecution for failure to verify residence address. The sheriff must seek a warrant for the arrest of an offender who fails to verify residence address after the 7 day grace period.

NOTIFICATION REQUIREMENTS FOR SHERIFFS & LIABILITY CONCERNS

After a sexual predator or habitual sex offender subject to notification provisions registers

with the county sheriff, the sheriff is required to notify certain community members within a geographic area prescribed by BCII in consultation with law enforcement. Those entitled to notice include the victim of the offense, the offender's neighbors, children services agencies, school superintendents, preschool directors, child day care centers, institutions of higher education, and the chief of police of the municipal corporation in which the offender resides. Generally these notification requirements continue and must be repeated when an offender changes their place of residence. The bill provides qualified immunity to law enforcement and those entitled to notification (except for neighbors) from liability in a civil action in connection with the registration and notification provisions of this act.

It should be noted that school and university officials, day care administrators, and executive directors of each public children service agency who receive information from the sheriff concerning a sexual predator or habitual sex offender may inform parents, guardians, and adult students that such an offender is residing within the specified geographical area, but must not release any other information such as the name and address of the offender. They must inform the person(s) inquiring that the information concerning the offender is a public record, and is open for inspection under section 149.43 of the Revised Code at the office of the Sheriff with whom the offender has registered.

Although there is a qualified immunity protection provided by the bill, these notification requirements should be followed strictly as specified in the rules adopted by the Attorney General's Office, as this process could be particularly volatile to lawsuits. If the county agencies involved (i.e. sheriff and the public children service agencies) do not strictly follow the rules, such action could result in a lawsuit against the county. For example, if a sheriff placed a sex offender's name on a billboard or a county children service agency released the name of a sex offender contrary to the rules, the offender could file a suit against the county. The notification requirements for sheriffs only allow them to give the names and addresses of sex offenders to certain persons in the designated geographical area prescribed by BCII. As for the residents in the county that are not within the designated geographical area, the sheriff may notify them that information on sex offenders may be requested pursuant to Section 149.43 of the Revised Code. The county children service agencies are only allowed to inform parents, guardians, and adult students that a sex offender is residing within their specified geographical area and refer inquiries for sex offender's names and addresses to the sheriff. The further any of the involved county agencies stray from the notification rules the easier it becomes to prove a county was not acting in "good faith", potentially nullifying the qualified immunity granted in the bill. It goes without saying, that we strongly encourage sheriffs and county children service agencies to work closely with the county prosecutor on this issue.

ESTIMATED COSTS TO COUNTIES

Prior to H.B. 180, the state's Habitual Sex Offender Registration Law required offenders to register with their county sheriff or chief of police within 30 days of the offender's taking up residence. The duration of the registration requirements was 10 years. The bill increases the types of offenders who must register locally; places the entire responsibility

of managing local registration with county sheriffs; requires the sheriff to provide notification to certain prescribed persons, reduces the window of time an offender has to initially register from 30 days to 7 days; and expands the period during which certain offenders must remain registered. Thus, counties will be responsible for additional offenders for longer periods of time, which obviously means increased costs.

It is estimated that over 1,100 sex offenders are convicted annually. It is further estimated that the Department of Rehabilitation and Corrections (DRC) will release approximately 625 sex offenders annually that will be subject to the registration requirements, notification requirements, or both depending on the offense they committed, their history of offenses, and whether or not they were convicted with a sexually violent predator specification. These numbers may seem minute statewide, however, in ten years the number of sex offenders that county sheriffs could be responsible for could increase to 6,250, and in 20 years the number of sex offenders subject to registration and notification could reach up to 10,000. If these estimates are correct, most county sheriffs will unlikely need additional personnel initially but as the number of sex offenders subject to notification grows an increase in sheriff personnel is likely. In addition, there will be a small number of sex offenders that will be sentenced to and released from local community correctional facilities or programs that will fall under the registration and notification requirements.

The table, **“Costs to Counties for Sex Offender Registration & Notification”**, on the next page provides some idea of what the costs per sex offender might be for counties. However, because of the many dynamics involved with the registration and notification requirements, it is impossible to accurately measure these costs, thus these estimates should be used with caution. In addition to the costs discussed in the table are the potential jail costs for sex offenders who do not comply with the registration requirements. Failure to register within seven days of establishing residency in a county or failing to continue registration requirements may result in being charged with additional offenses that range from misdemeanors to felonies. This should also be considered as an added cost of implementing the bill.

Also not included in the cost table, are the sheriff’s costs of transporting certain sex offenders from prison to court hearings prior to their release. The bill generally requires DRC to make a recommendation on all sex offenders that were convicted prior to the effective date of HB 180 as to whether or not they should be adjudicated, for the purpose of registration and notification, as a “sexual predator” (Section 2950.09(C)) before they are released. If DRC determines the offender should be adjudicated as a sexual predator they must send the recommendation to the court that sentenced the offender. If the sentencing court agrees with the recommendation to adjudicate the sex offender as a sexual predator they are required to hold a hearing in which the offender must be present. The county sheriff has the responsibility of providing the transportation for the offender from the prison to the court. According to DRC there are approximately 7,000 prisoners in various DRC facilities that fall under this provision of the bill. However, as stated previously only approximately 625 sex offenders are released annually. Thus, the costs of transporting offenders to these hearings will be limited to those offenders that are being released and

were sentenced prior to the passage of HB 180. Depending on the number of offenders that fall under this provision of the bill and depending on the location of the DRC facility to the court, this provision could prove to be costly for some counties (the number of offenders could reach up to an estimated 625 annually until all 7,000 sex offenders are released). It should be noted that the expenses associated with holding the hearings will likely be more significant than the transportation costs as the hearings will involve the judge and court personnel, prosecutors, public defenders, and in some cases expert witnesses (i.e. psychologists). It should also be noted that this provision of the bill has been ruled unconstitutional by some trial court judges around the state, thus, its constitutionality will likely be determined by a higher court in the near future.

ACKNOWLEDGMENT

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COSTS TO COUNTIES FOR SEX OFFENDER REGISTRATION & NOTIFICATION (HB 180)*

REQUIREMENT	ESTIMATED COSTS	FACTORS EFFECTING COSTS
Completion of Registration/Verification Forms & Change of Residence Forms	<p style="text-align: center;">Sheriff: \$46 to \$630 per offender</p> <p style="text-align: center;">Common Pleas Courts: \$12 per offender</p>	<ul style="list-style-type: none"> ▶ Type of offender (range of \$46 for each sexually oriented offender to \$630 for each sexual predator; costs of offenders differ based on requirements) ▶ Personnel costs for fingerprinting, photographing, explaining forms ▶ Equipment costs (these figures include potential computer expenses which would not likely be an annual expenditure) ▶ Postage and copying costs
Notification Requirements	<p style="text-align: center;">Sheriff: \$37 to \$251 per offender</p>	<ul style="list-style-type: none"> ▶ Type of offender ▶ Number of school districts in the county (geographical requirements for notification are based on the offender's school district, the larger the school district the more it will likely cost) ▶ Number of universities/colleges, day care centers, pre-school programs, children service agencies, and other local law enforcement in the designated geographical area ▶ Number of neighbors the offender has (multi-resident building, rural area, etc.) ▶ Number of residency changes by the offender (each change requires notification) ▶ Postage and copying costs
Victim Notification	<p style="text-align: center;">Sheriff: \$2 per offender</p> <p style="text-align: center;">Common Pleas Court: Minimal</p>	<ul style="list-style-type: none"> ▶ Depends on the number of requests but involves personnel expenditures, postage and copying costs
Requests/Questions to Sheriff Pursuant to Section 149.43	<p style="text-align: center;">Sheriff: Not applicable</p>	<ul style="list-style-type: none"> ▶ Depends on the number of requests but involves personnel expenditures, postage and copying costs

Source: Ohio Office of Attorney General's analysis provided to the Joint Committee on Agency Rule Review.

*Estimates based on 625 offenders released annually from DRC (see pg. 5, "ESTIMATED COSTS TO COUNTIES", for more information about these offenders). Note as the number of sex offenders increase, the cost per offender will decrease because of economies of scale.

