



SUBJECT: Sex Offender Designation and Registration	PAGE <u> 1 </u> OF <u> 7 </u>
	NUMBER: 07-ORD-07
RULE/CODE REFERENCE: ORC 2950.0	SUPERSEDES: 07-ORD-07 dated 12/13/13
RELATED ACA STANDARDS:	EFFECTIVE DATE: November 17, 2016
	APPROVED: 

I. AUTHORITY

This policy is issued in compliance with Ohio Revised Code 5120.01 which delegates to the Director of the Department of Rehabilitation and Correction the authority to manage and direct the total operations of the Department and to establish such rules and regulations as the Director prescribes.

II. PURPOSE

The purpose of this policy is to provide accurate, efficient and secure procedures regarding the release of sexually oriented offenders and/or child victim oriented offenders from confinement; and to ensure such offenders are correctly identified, notified of their duty to register, and that the Ohio Bureau of Criminal Identification and Investigation and county sheriff’s offices are notified of their release.

III. APPLICABILITY

This policy is applicable to all persons employed by the Ohio Department of Rehabilitation and Correction (DRC), independent contractors providing a service to the DRC, inmates and volunteers; especially to all involved in correctly identifying sexually oriented offenders/child victim offenders and notifying offenders of their duty to register.

IV. DEFINITIONS

Bureau of Criminal Identification and Investigation (BCI&I) - An investigative law enforcement agency for the State of Ohio.

Child Victim Oriented Offenses

- 2905.01 (A) (1), (2), (3), or (5) Kidnapping (No Sexual Motivation)
- 2905.02 (A) Abduction (No Sexual Motivation)
- 2905.03 (A) Unlawful Restraint (No Sexual Motivation)
- 2905.04 Child Stealing (Now Repealed)
- 2905.05 (A) Child Enticement (No Sexual Motivation)

A violation of any former law of this state, any existing law in another state, the United States, other Nation, Tribal Court, Military Court that is or was substantially equivalent to the above.

Attempt, Conspiracy or Complicity to commit any offense listed above.

In all cases, the offender must be 18 or over, the victim must be under 18 and the victim cannot be the child of the offender.

Habitual Sex Offender Law – A designation under pre-HB180 (1/1/97) that included any person convicted two or more times in separate criminal actions of:

2907.02 Rape

2907.03 Sexual Battery

2907.05 Gross Sexual Imposition

2907.08 Voyeurism

2907.09 Public Indecency

2907.04 Corruption of a Minor (felony only)

2907.06 (A)(4) Sexual Imposition (victim between the ages of 13 and 19)

2907.07 (A) or (B) Importuning (victim under 13 or victim same sex as offender)

Attempt, Conspiracy or Complicity to commit any offense listed above or any offense under any former law of this state or Municipal ordinance of law or another state or federal government that is substantially equivalent to any of the above offenses. (Juvenile convictions cannot be included.)

HB180 - House Bill 180, also known as Megan's Law, effective January 1, 1997 – December 31, 2007 which revised Chapter 2950 of the Ohio Revised Code. This law is still applicable to offenders who committed their offense prior to January 1, 2008. The sex offender designations under this law include:

- ❑ Aggravated Sexually Oriented Offenders: Violation of division (A)(1)(b) of section 2907.02 of the Revised Code committed on or after June 13, 2002 or a violation of division (A)(2) of that section committed on or after July 31, 2003. Aggravated Sexually Oriented Offenders are subject to registration and verification every ninety (90) days for life.
- ❑ Sexual Predator: A person designated by the court, who has been convicted of, or pleaded guilty to, committing a sexually oriented offense and who is likely in the future to commit additional sexually oriented offenses. This designation can be made in one of two ways: a) the offender is convicted of a sexually violent offense with sexually violent predator specification, or b) the sentencing court adjudicates and specifies in a journal entry. Sexual Predator offenders are subject to registration and verification every ninety (90) days for life.
- ❑ Sexually Violent Predator: ORC 2971 - A person who has been convicted of or pleaded guilty to committing, on or after January 1, 1997, a sexually violent offense and is likely to engage in the future in one or more sexually violent offenses. The indictment charging the offender with a sexually violent offense will include a specification that the offender is a sexually violent predator. The specification shall be stated at the end of the body of the indictment, and all factors set forth in division (H)(1) to (H)(6) of section 2971.01 of the Ohio Revised Code (pre 1/1/08) that apply may be considered. If the offender is convicted of or pleads guilty to a sexually violent predator specification in the indictment, the conviction of or plea of guilty automatically classifies the offender as a sexual predator. Sexually Violent Predator offenders are subject to registration and verification every ninety (90) days for life.
- ❑ Habitual Sex Offender: A person designated by the court who has been convicted of or pleaded guilty to committing a sexually oriented offense, and who previously has been convicted of or

pleaded guilty to one or more sexually oriented offenses. Habitual Sex Offenders are subject to registration and verification annually for twenty (20) years.

- Sexually Oriented Offender: A person sentenced on or after 1/1/97 and who has been convicted of or pleaded guilty to committing a sexually oriented offense, but who has not been designated as a sexual predator, habitual sex offender, child-victim sexual predator, habitual child-victim offender; or a person sentenced prior to 1/1/97 for a sexually oriented offense, and is still incarcerated on 1/1/97 for a sexually oriented offense; or a person sentenced prior to 1/1/97 for a sexually oriented offense and is still incarcerated on 1/1/97 who has one prior sex conviction under the old Habitual Sex Offender law; or a person sentenced prior to 1/1/97 for a non-sex offense and still incarcerated on 1/1/97 who has two prior sex convictions under the old Habitual Sex Offender law. **The court does not have to designate the offender as a 'sexually oriented offender.' Instead, this is a determination made by operation of law after the record officer reviews the offender's criminal history. Sexually Oriented Offenders are subject to registration and verification annually for ten (10) years.

Jail Inmates - The reception centers house offenders pending violation hearings by the Adult Parole Authority. These offenders are held in "county jail" status.

Offender Watch - A sex offender registration and notification software system managed by the Attorney General's Office and BCI&I to work in conjunction with DRC, Ohio Sheriff's Offices and BCI&I to document designation, identification and registration of sex offenders.

Sexually Oriented Offenses

2907.02 Rape

2907.03 Sexual Battery

2907.05 Gross Sexual Imposition

2907.06 Sexual Imposition **not registerable until 7/31/2003*

2907.07 Importuning

2907.08 Voyeurism

2907.12 Felonious Sexual Penetration (Now Repealed)

2907.21 Compelling Prostitution

2907.22 Promoting Prostitution **not registerable until June 27, 2012*

2907.24 (A) Soliciting after positive HIV test **registerable if crime committed o/a June 20, 2014*

2907.24 (A)(3) Soliciting after positive HIV test (The other person is less than sixteen years of age, the other person is a developmentally disabled person)

2907.32 Pandering Obscenity

2907.321 Pandering Obscenity Involving A Minor

2907.322 Pandering Sexually Oriented Material Involving A Minor

2907.323 Illegal Use Of A Minor In Nudity Oriented Material Or Performance

2907.04 Unlawful Sexual Conduct With A Minor and Offender At Least Four Years Older Than Victim Or Offender less Than 4 Years Older Than victim and Previously Convicted of 2907.02, 2907.03, or 2907.04 or Former 2907.12 ; OR Non-Consensual And Offender less Than 4 Years Older Than Victim, Not Previously Convicted of 2907.02, 2907.03, Or 2907.04, Or Former 2907.12.

2903.01 Agg Murder with Sexual Motivation

2903.02 Murder with Sexual Motivation

2903.03 (B) Voluntary Manslaughter with Sexual Motivation

2903.04(A) Involuntary Manslaughter Unlawful Death or Termination of Pregnancy as a Result of Committing or Attempting to Commit a Felony with Sexual Motivation
2903.11 Felonious Assault with Sexual Motivation
2903.211 (A)(3) Menacing by Stalking with Sexual Motivation
2905.01 (A) (1), (2), (3), (5) Kidnapping with Sexual Motivation
2905.01 (A)(4) Kidnapping
2905.01 (B) Kidnapping of Minor, Not Parent
2905.02 (B) Abduction with Sexual Motivation
2905.03 (B) Unlawful Restraint with Sexual Motivation
2905.05 (B) Child Enticement with Sexual Motivation
2905.32 Trafficking in persons – when recruited, lured, enticed, isolated, harbored, transported, provided, obtained, or maintained, or attempted to, another person knowing that the person would be compelled to engage in sexual activity for hire, engage in an obscene performance, sexually oriented or nudity oriented, or be a model or participate in the production of material that was obscene, sexually oriented, or nudity oriented.
2919.22 (B)(5) Endangering Children if Material or Performance is Obscene or Nudity-Oriented Matter
A violation of any former law of this state, any existing law in another state, the United States, Military Court that is or was substantially equivalent to the above
Attempt, Conspiracy or Complicity to commit any offense listed above

SB5 - Senate Bill 5 Effective July 31, 2003 – December 31, 2007 which revised Chapter 2950 of the Ohio Revised Code to label Child Victim Offenders. This law is still applicable to offenders who committed their offense prior to January 1, 2008. The child-victim designations under this law include:

- ❑ Child-Victim Oriented Offender: Committed by a person 18 or over, against a person under 18, and not the child of the offender. Child Victim Offenders are subject to registration and verification annually for fifteen (15) years.
- ❑ Child-Victim Predator: A person who has a child-victim oriented offense conviction and is likely to engage in the future in one or more child-victim oriented offenses; or a juvenile who has a child-victim oriented offense adjudication, was fourteen (14) or older, is a juvenile offender registrant based on that adjudication, and is likely to engage in the future in one or more child-victim oriented offenses. A person can be designated as a ‘child-victim predator’ by automatic classification 2950.091(A)(2), judicial determination at sentencing 2950.01(V)(2), or DRC recommendation 2950.01(V)(4) and 2950.01(C) of the Ohio Revised Code. Child Victim Predator offenders are subject to registration and verification every ninety (90) days for life.
- ❑ Habitual Child-Victim Offender: A person convicted of a child-victim oriented offense, and either has a prior child-victim oriented conviction, regardless of when the offense was committed, or a delinquent child with a prior child-victim oriented adjudication. Habitual Child Victim offenders are subject to registration and verification every 180 days for twenty-five (25) years.

SB10 - Senate Bill 10, also known as the Adam Walsh Act, effective January 1, 2008 to present. This law revised Chapter 2950 of the Ohio Revised Code to comply with the Adam Walsh Act and replaced the requirements of HB180. Offenders who committed their offense January 1, 2008 and later are assigned to a tier designation defined by 2950.01 for registration purposes. Sex offenses are broken down into three tiers depending on the severity:

- Tier 3 is a sexually oriented offense or child victim offense that carries a sentence of greater than one year and is generally comparable to higher level sexually oriented offenses in Ohio. Tier 3 offenders are subject to registration and verification every ninety (90) days for life.
- Tier 2 is a sexually oriented offense or child victim offense that carries a sentence of greater than one (1) year and is generally comparable to lower level sexually oriented offenses in Ohio. Tier 2 offenders are subject to registration and verification every 180 days for twenty-five (25) years. Tier 2 juveniles register for twenty (20) years.
- Tier 1 is a sexually oriented offense or child victim offense that is not a Tier 2 or Tier 3 offense. Tier 1 offenders are subject to registration and verification once every twelve (12) months for fifteen (15) years. Juveniles register for ten (10) years.

V. POLICY

It is the policy of the Ohio Department of Rehabilitation and Correction (DRC) that each offender is identified as defined by the Ohio Revised Code Section 2950.01 and 2971.01, both pre- and post-1/1/2008, and that all notification and registration responsibilities are met in preparation for the offender's release from an institution.

VI. PROCEDURES

A. Upon admission to DRC

1. The Bureau of Record Management (BORM) shall review the offender's record in accordance with the Sex Offender Section of the Operations Manual to determine if the offender has a registerable offense under SB10, SB5, HB180, or the Habitual Sex Offender Law.
2. If the offender has an offense under SB10 and the court has made a designation in a journal entry, BORM shall enter the information in DOTS Portal HB180 & CERTN screens and update Offender Watch.
3. If the offender has an offense under SB10 and the court has NOT made a designation in a journal entry, BORM shall:
 - a. Contact the court in an attempt to obtain a journal entry indicating a Tier designation;
 - b. If no response is received from the court within five (5) business days, send a notice to the court in writing;
 - c. Document all contact with the court in the CERTN screen;
 - d. Designate the offender as "Adult Pending" in the Offender Watch System.
4. If the offender qualifies as a Habitual Sex Offender, HB180 or SB5, and the court has made a designation in a journal entry, BORM shall enter in DOTS Portal HB180 & CERTN screens and update Offender Watch.

5. If the offender qualifies as a Habitual Sex Offender, HB180 or SB5, and the court has NOT made a designation in a journal entry, BORM shall do the following:
 - a. Habitual Sex Offender designate as a Sexually Oriented Offender. Enter in DOTS Portal HB180 & CERTN screens and update Offender Watch;
 - b. HB180 designate as a Sexually Oriented Offender. Enter in DOTS Portal HB180 & CERTN screens and update Offender Watch;
 - c. SB5 designate as a Child Victim Offender. Enter in DOTS Portal HB180 & CERTN screens and update Offender Watch.
6. A search of the Offender Watch System shall be completed to determine if the offender has a previous registration in this state or any other state. Enter in DOTS Portal HB180 & CERTN, if applicable.

B. During Incarceration

Bureau of Sentence Computation (BOSC) shall notify BORM of any update or modification made to an offender's sentencing record. BORM shall review the update or modification to determine if there is a change in the sex offender or child victim offender designation. BORM shall update DOTS Portal and Offender Watch accordingly.

C. 45 Days or less to Release from a DRC Institution BORM shall:

1. Review each offender's record, to include "county jail status" offenders in accordance with section VI.A of this policy.
2. If the offender is determined to have a Sex Offender or Child Victim Offender designation, BORM shall do the following:
 - a. Update DOTS Portal HB180 & CERTN, if necessary
 - b. Update Offender Watch to include:
 - i. Appropriate designation
 - ii. Expected Future Residence
 - a) If not available, contact appropriate institution.
 - b) If offender refuses to provide, the sheriff of the commitment county shall be utilized.
 - iii. Identifying Factors
 - iv. Incarceration Dates
 - v. Mental Health flag on the Incarceration tab according to DOTS Portal CLASI screen.
 - vi. Investigative Notes according to DOTS Portal SXR screen if score 6 or above. Enter "To comply with 2950.14 (B)(5), the offender received treatment for a Static 99 score of 6 or above."
 - vii. Juvenile flag, if appropriate
 - c. Print "Explanation of Duties to Register" and include with Release Packet to be provided to the appropriate institution;
 - d. Electronically send notification to the residing address county sheriff and BCI&I.

3. If the offender is determined to be a Sexually Oriented Offender or Child Victim Offender under SB10 and the court has not made a designation, BORM shall register the offender as “Adult Pending” in the Offender Watch System, email OHLEGSupport@ohioattorneygeneral.gov, and follow section VI.C.2 of this policy.
 4. BORM shall scan all documentation into OnBase master file section 4.
- D. Upon release from a DRC institution, the managing officer/designee shall:
1. Interview the offender to obtain an address upon release, if required.
 2. Explain the “Explanation of Duties to Register” form, and advise the offender to report in person and register with the sheriff of the county in which the offender expects to reside within three (3) days of release.
 3. Have the offender sign two (2) copies of the “Explanation of Duties to Register” form. The offender is to receive a copy and a copy shall be scanned to the DRC Records Release Documents mailbox.
 - a. Should the offender refuse to sign “The Explanation of Duties to Register” form, this fact shall be witnessed by a staff member and appropriately documented on the bottom of the form. The offender shall be informed that he/she must still register as required by law, and that he/she must register within three (3) days of release from the institution. The DRC staff member shall also document on the form that the offender has been informed of his registration requirements. A copy shall be scanned to the DRC Records Release Documentation mailbox.
- E. BORM is not required to register an offender who is released by the court after a judicial hearing without returning to the institution. In these cases, DRC is not the releasing agency and the court or the county sheriff must register the offender.
- F. The Attorney General has determined that information submitted to a county sheriff, by an offender, pursuant to Chapter 2950, is a public record (AG Opinion 970-083). Records held by the DRC are still subject to R.C. 5120.21(F), which states that records of inmates, or those under APA supervision are not public records. Therefore, the sex offender screening instrument and the notification letter to the court is not a public record. However, these documents may be provided to the court upon their request.