

# AN ACT

To amend sections 2903.213 and 2950.03 of the Revised Code to authorize the issuance of an anti-stalking protection order upon the filing of a complaint that alleges the commission of an assault offense or a violation of certain municipal ordinances and to modify the source of the offender's criminal history that a judge or detention facility official must obtain in relation to a notice to be provided under the Sex Offender Registration and Notification Law.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That sections 2903.213 and 2950.03 of the Revised Code be amended to read as follows:

Sec. 2903.213. (A) Except when the complaint involves a person who is a family or household member as defined in section 2919.25 of the Revised Code, upon the filing of a complaint that alleges a violation of section 2903.11, 2903.12, 2903.13, 2903.21, 2903.211, 2903.22, or 2911.211 of the Revised Code or a violation of a municipal ordinance substantially similar to section 2903.13, 2903.21, 2903.211, 2903.22, or 2911.211 Of the Revised Code, the complainant may file a motion that requests the issuance of an anti-stalking protection order as a pretrial condition of release of the alleged offender, in addition to any bail set under Criminal Rule 46. The motion shall be filed with the clerk of the court that has jurisdiction of the case at any time after the filing of the complaint. If the complaint involves a person who is a family or household member, the complainant may file a motion for a temporary protection order pursuant to section 2919.26 of the Revised Code.

(B) A motion for an anti-stalking protection order shall be prepared on a form that is provided by the clerk of the court, which form shall be substantially as follows:

"Motion for Anti-stalking Protection Order nl/ql/dlp, ql.,150 Court Name  
and address of court

State of Ohio

v. No. .... nl/ql/dlp,. ql,,190

Name of Defendant

(Name of person), the complainant in the above-captioned case, moves the court to issue an anti-stalking protection order containing terms designed to ensure the safety and protection of the complainant in relation to the named defendant, pursuant to its authority to issue such an order under section 2903.213 of the Revised Code.

A complaint, a copy of which has been attached to this motion, has been filed in this court charging the named defendant with a violation of section 2903.11, 2903.12, 2903.13, 2903.21, 2903.211, 2903.22, or 2911.211 of the Revised Code or a violation of a municipal ordinance substantially similar to section 2903.13, 2903.21, 2903.211, 2903.22, or 2911.211 Of the Revised Code.

I understand that I must appear before the court, at a time set by the court not later than the next day that the court is in session after the filing of this motion, for a hearing on the motion, and that any anti-stalking protection order granted pursuant to this motion is a pretrial condition of release and is effective only until the disposition of the criminal proceeding arising out of the attached complaint. nl/ql/dlp,. ql,,190

Signature of complainant nl/ql/dlp,. ql,,190

Address of complainant"

(C) As soon as possible after the filing of a motion that requests the issuance of an anti-stalking protection order, but not later than the next day that the court is in session after the filing of the motion, the court shall conduct a hearing to determine whether to issue the order. The complainant shall appear before the court and provide the court with the information that it requests concerning the basis of the motion. If the court finds that the safety and protection of the complainant may be impaired by the continued presence of the alleged offender, the court may issue an anti-stalking protection order, as a pretrial condition of release, that contains terms designed to ensure the safety and protection of the complainant, including a requirement that the alleged offender refrain from entering the residence, school, business, or place of employment of the complainant.

(D)(1) Except when the complaint involves a person who is a family or household member as defined in section 2919.25 of the Revised Code, upon the filing of a complaint that alleges a violation specified in division (A) of this section 2903.21, 2903.211, 2903.22, or 2911.211 of the Revised Code, the court, upon its own motion, may issue an anti-stalking protection order as a pretrial condition of release of the alleged offender if it finds that the

fety and protection of the complainant may be impaired by the continued presence of the alleged offender.

(2) If the court issues an anti-stalking protection order under this section as an ex parte order, it shall conduct, as soon as possible after the issuance of the order but not later than the next day the court is in session after its issuance, a hearing to determine whether the order should remain in effect, be modified, or be revoked. The hearing shall be conducted under the standards set forth in division (C) of this section.

(E) An anti-stalking protection order that is issued as a pretrial condition of release under this section:

(1) Is in addition to, but shall not be construed as a part of, any bail set under Criminal Rule 46;

(2) Is effective only until the disposition of the criminal proceeding arising out of the complaint upon which it is based;

(3) Shall not be construed as a finding that the alleged offender committed the alleged offense, and shall not be introduced as evidence of the commission of the offense at the trial of the alleged offender on the complaint upon which the order is based.

(F) A person who meets the criteria for bail under Criminal Rule 46 and who, if required to do so pursuant to that rule, executes or posts bond or deposits cash or securities as bail, shall not be held in custody pending a hearing before the court on a motion requesting an anti-stalking protection order.

(G)(1) A copy of any anti-stalking protection order that is issued under this section shall be issued by the court to the complainant, to the defendant, and to all law enforcement agencies that have jurisdiction to enforce the order. The court shall direct that a copy of the order be delivered to the defendant on the same day that the order is entered.

(2) All law enforcement agencies shall establish and maintain an index for the anti-stalking protection orders delivered to the agencies pursuant to division (G)(1) of this section. With respect to each order delivered, each agency shall note on the index, the date and time of the receipt of the order by the agency.

(3) Any officer of a law enforcement agency shall enforce an anti-stalking protection order in accordance with the provisions of the order.

(H) Upon a violation of an anti-stalking protection order, the court may issue another anti-stalking protection order, as a pretrial condition of release, that modifies the terms of the order that was violated.

(I) Notwithstanding any provision of law to the contrary, no court shall charge a fee for the filing of a motion pursuant to this section.

Sec. 2950.03. (A) Each person who has been convicted of, is convicted of, has pleaded guilty to, or pleads guilty to a sexually oriented offense and who has a duty to register pursuant to section 2950.04 of the Revised Code shall be provided notice in accordance with this section of the offender's duty to register under that section, the offender's duty to provide notice of any change in the offender's residence address and to register the new residence address pursuant to section 2950.05 of the Revised Code, and the offender's duty to periodically verify the offender's residence address pursuant to section 2950.06 of the Revised Code. The following official shall provide the notice to the offender at the following time:

(1) Regardless of when the offender committed the sexually oriented offense, if the offender is sentenced for the sexually oriented offense to a prison term, a term of imprisonment, or any other type of confinement, and if, on or after ~~the effective date of this section~~ JANUARY 1, 1997, the offender is serving that term or is under that confinement, the official in charge of the jail, workhouse, state correctional institution, or other institution in which the offender serves the prison term, term of imprisonment, or confinement, or a designee of that official, shall provide the notice to the offender at least ten days before the offender is released pursuant to any type of supervised release or at least ten days before the offender otherwise is released from the prison term, term of imprisonment, or confinement.

(2) Regardless of when the offender committed the sexually oriented offense, if the offender is sentenced for that offense on or after ~~the effective date of this section~~ JANUARY 1, 1997, and if division (A)(1) of this section does not apply, the judge shall provide the notice to the offender at the time of sentencing.

(3) If the offender committed the sexually oriented offense prior to ~~the effective date of this section~~ JANUARY 1, 1997, if neither division (A)(1) nor division (A)(2) of this section applies, and if, immediately prior to ~~the effective date of this section~~ JANUARY 1, 1997, the offender was a habitual sex offender who was required to register under Chapter 2950. of the Revised Code, the chief of police or sheriff with whom the offender most recently registered under that chapter, in the circumstances described in this division, shall provide the notice to the offender. If the offender has registered with a chief of police or sheriff under Chapter 2950. of the Revised Code as it existed prior to ~~the effective date of this section~~ JANUARY 1, 1997, the chief of police or sheriff with whom the offender most recently registered shall provide the notice to the offender as soon as possible after ~~the effective date of this section~~ JANUARY 1, 1997, as

described in division (B)(1) of this section. If the offender has not registered with a chief of police or sheriff under that chapter, the failure to register shall constitute a waiver by the offender of any right to notice under this section. If an offender described in this division does not receive notice under this section, the offender is not relieved of the duty to register, the duty to provide notice of any change in residence address and to register the new residence address, and the duty to periodically verify the residence address, as described in division (A) of this section.

(B)(1) The notice provided under division (A) of this section shall inform the offender of the offender's duty to register under section 2950.04 of the Revised Code, to notify the appropriate officials of a change in the offender's residence address and to register the new residence address in accordance with section 2950.05 of the Revised Code, and to periodically verify a residence address under section 2950.06 of the Revised Code. The notice shall comport with the following:

(a) If the notice is provided under division (A)(3) of this section, the notice shall be on a form that is prescribed by the bureau of criminal identification and investigation and that states the offender's duties to register, to register a new residence address, and to periodically verify a residence address and that, if the offender has any questions concerning these duties, the offender may contact the chief of police or sheriff who sent the form for an explanation of the duties. If the offender appears in person before the chief of police or sheriff, the chief or sheriff shall provide the notice as described in division (B)(1)(a) of this section, and all provisions of this section that apply regarding a notice provided by an official, official's designee, or judge in that manner shall be applicable.

(b) If the notice is provided under division (A)(1) or (2) of this section, the official, official's designee, or judge shall require the offender to read and sign a form prescribed by the bureau of criminal identification and investigation, stating that the offender's duties to register, to register a new residence address, and to periodically verify a residence address have been explained to the offender. If the offender is unable to read, the official, official's designee, or judge shall certify on the form that the official, designee, or judge specifically informed the offender of those duties and that the offender indicated an understanding of those duties.

(c) For a notice provided under division (A)(1), (2), or (3) of this section, the form used shall contain all of the information required by the bureau of criminal identification and investigation, including, but not limited to, a statement as to whether the offender has been adjudicated as being a sexual predator relative to the sexually oriented offense in question, a

statement as to whether the offender has been determined to be a habitual sex offender, an explanation of the periodic residence address verification process and of the frequency with which the offender will be required to verify the residence address under that process, and a statement that the offender must verify the residence address at the times specified under that process or face criminal prosecution.

(2) After an offender described in division (A)(1) or (2) of this section has signed the form described in division (B)(1) of this section or the official, official's designee, or judge has certified on it that it has been explained to the offender and that the offender indicated an understanding of the duties indicated on it, the official, official's designee, or judge shall give one copy of the form to the offender, within three days shall send one copy of the form to the bureau of criminal identification and investigation in accordance with the procedures adopted pursuant to section 2950.13 of the Revised Code, and shall send one copy of the form to the sheriff of the county in which the offender expects to reside. After a chief of police or sheriff has sent a form to an offender under division (A)(3) of this section, the chief or sheriff shall send a copy of the form to the bureau of criminal identification and investigation in accordance with the procedures adopted pursuant to section 2950.13 of the Revised Code.

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

(1) If the notice is provided under division (A)(1) or (2) of this section, the official, designee, or judge shall determine the offender's name, identifying factors, and expected future residence address, shall obtain the offender's criminal history ~~from the bureau of criminal identification and investigation~~, and shall obtain a photograph and the fingerprints of the offender. If the notice is provided by a judge under division (A)(2) of this section, the sheriff shall provide the offender's criminal history to the judge. The official, official's designee, or judge shall obtain this information and these items prior to giving the notice, except that a judge may give the notice prior to obtaining the offender's criminal history ~~from the bureau~~. Within three days after receiving this information and these items, the official, official's designee, or judge shall forward the information and items to the bureau of criminal identification and investigation in accordance with the forwarding procedures adopted pursuant to section 2950.13 of the Revised Code and to the sheriff of the county in which the offender expects to reside. If it has not already done so, the bureau of criminal identification and investigation shall forward a copy of the fingerprints and conviction

ata received under this division to the federal bureau of investigation.

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

SECTION 2. That existing sections 2903.213 and 2950.03 of the Revised Code are hereby repealed.

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*Speaker \_\_\_\_\_ of the House of Representatives.*

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*President \_\_\_\_\_ of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the \_\_\_ day of \_\_\_\_\_, A. D. 20\_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_