

ORC Ann. 2950.11

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Page's Ohio Revised Code Annotated > Title 29: Crimes — Procedure (Chs. 2901 — 2981) > Chapter 2950: Sex Offender Registration and Notification (§§ 2950.01 — 2950.99)

§ 2950.11 Community notification provisions.

(A) Regardless of when the sexually oriented offense or child-victim oriented offense was committed, if a person is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to a sexually oriented offense or a child-victim oriented offense or a person is or has been adjudicated a delinquent child for committing a sexually oriented offense or a child-victim oriented offense and is classified a juvenile offender registrant or is an out-of-state juvenile offender registrant based on that adjudication, and if the offender or delinquent child is in any category specified in division (F)(1)(a), (b), or (c) of this section, the sheriff with whom the offender or delinquent child has most recently registered under [section 2950.04](#), [2950.041](#), or [2950.05 of the Revised Code](#) and the sheriff to whom the offender or delinquent child most recently sent a notice of intent to reside under [section 2950.04](#) or [2950.041 of the Revised Code](#), within the period of time specified in division (C) of this section, shall provide a written notice containing the information set forth in division (B) of this section to all of the persons described in divisions (A)(1) to (10) of this section. If the sheriff has sent a notice to the persons described in those divisions as a result of receiving a notice of intent to reside and if the offender or delinquent child registers a residence address that is the same residence address described in the notice of intent to reside, the sheriff is not required to send an additional notice when the offender or delinquent child registers. The sheriff shall provide the notice to all of the following persons:

(1)

(a) 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. Division (D)(3) of this section applies regarding notices required under this division.

(b) If the offender or delinquent child resides in a multi-unit building, any occupant of each residential unit that is located in that multi-unit building and that shares a common hallway with the offender or delinquent child. For purposes of this division, an occupant's unit shares a common hallway with the offender or delinquent child if the entrance door into 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. Division (D)(3) of this section applies regarding notices required under this division.

(c) 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.

(d) 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;

(2) The executive director of the public children services agency that has jurisdiction within the specified geographical notification area and that is located within the county served by the sheriff;

(3)

(a) The superintendent of each board of education of a school district that has schools within the specified geographical notification area and that is located within the county served by the sheriff;

(b) The principal of the school within the specified geographical notification area and within the county served by the sheriff that the delinquent child attends;

(c) If the delinquent child attends a school outside of the specified geographical notification area or outside of the school district where the delinquent child resides, the superintendent of the board of education of a school district that governs the school that the delinquent child attends and the principal of the school that the delinquent child attends.

(4)

(a) The appointing or hiring officer of each chartered nonpublic school located within the specified geographical notification area and within the county served by the sheriff or of each other school located within the specified geographical notification area and within the county served by the sheriff and that is not operated by a board of education described in division (A)(3) of this section;

(b) Regardless of the location of the school, the appointing or hiring officer of a chartered nonpublic school that the delinquent child attends.

(5) The director, head teacher, elementary principal, or site administrator of each preschool program governed by Chapter 3301. of the Revised Code that is located within the specified geographical notification area and within the county served by the sheriff;

(6) The administrator of each child day-care center or type A family day-care home that is located within the specified geographical notification area and within the county served by the sheriff, each holder of a license to operate a type B family day-care home that is located within the specified geographical notification area and within the county served by the sheriff. As used in this division, “child day-care center,” “type A family day-care home,” and “type B family day-care home” have the same meanings as in [section 5104.01 of the Revised Code](#).

(7) The president or other chief administrative officer of each institution of higher education, as defined in [section 2907.03 of the Revised Code](#), that is located within the specified geographical notification area and within the county served by the sheriff, and the chief law enforcement officer of the state university law enforcement agency or campus police department established under [section 3345.04](#) or [1713.50 of the Revised Code](#), if any, that serves that institution;

(8) The sheriff of each county that includes any portion of the specified geographical notification area;

(9) If the offender or delinquent child resides within the county served by the sheriff, the chief of police, marshal, or other chief law enforcement officer of the municipal corporation in which the offender or delinquent child resides or, if the offender or delinquent child resides in an unincorporated area, the constable or chief of the police department or police district police force of the township in which the offender or delinquent child resides;

(10) 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.

(B) The notice required under division (A) of this section shall include all of the following information regarding the subject offender or delinquent child:

(1) The offender's or delinquent child's name;

(2) The address or addresses of the offender's or public registry-qualified juvenile offender registrant's residence, school, institution of higher education, or place of employment, as applicable, or the residence address or addresses of a delinquent child who is not a public registry-qualified juvenile offender registrant;

(3) The sexually oriented offense or child-victim oriented offense of which the offender was convicted, to which the offender pleaded guilty, or for which the child was adjudicated a delinquent child;

(4) A statement that identifies the category specified in division (F)(1)(a), (b), or (c) of this section that includes the offender or delinquent child and that subjects the offender or delinquent child to this section;

(5) The offender's or delinquent child's photograph.

(C) If a sheriff with whom an offender or delinquent child registers under [section 2950.04](#), [2950.041](#), or [2950.05 of the Revised Code](#) or to whom the offender or delinquent child most recently sent a notice of intent to reside under [section 2950.04](#) or [2950.041 of the Revised Code](#) is required by division (A) of this section to provide notices regarding an offender or delinquent child and if, pursuant to that requirement, the sheriff provides a notice to a sheriff of one or more other counties in accordance with division (A)(8) of this section, the sheriff of each of the other counties who is provided notice under division (A)(8) of this section shall provide the notices described in divisions (A)(1) to (7) and (A)(9) and (10) of this section to each person or entity identified within those divisions that is located within the specified geographical notification area and within the county served by the sheriff in question.

(D)

(1) A sheriff required by division (A) or (C) of this section to provide notices regarding an offender or delinquent child shall provide the notice to the neighbors that are described in division (A)(1) of this section and the notices to law enforcement personnel that are described in divisions (A)(8) and (9) of this section as soon as practicable, but no later than five days after the offender sends the notice of intent to reside to the sheriff and again no later than five days after the offender or delinquent child registers with the sheriff or, if the sheriff is required by division (C) of this section to provide the notices, no later than five days after the sheriff is provided the notice described in division (A)(8) of this section.

A sheriff required by division (A) or (C) of this section to provide notices regarding an offender or delinquent child shall provide the notices to all other specified persons that are described in divisions (A)(2) to (7) and (A)(10) of this section as soon as practicable, but not later than seven days after the offender or delinquent child registers with the sheriff or, if the sheriff is required by division (C) of this

section to provide the notices, no later than five days after the sheriff is provided the notice described in division (A)(8) of this section.

(2) If an offender or delinquent child in relation to whom division (A) of this section applies verifies the offender's or delinquent child's current residence, school, institution of higher education, or place of employment address, as applicable, with a sheriff pursuant to [section 2950.06 of the Revised Code](#), the sheriff may provide a written notice containing the information set forth in division (B) of this section to the persons identified in divisions (A)(1) to (10) of this section. If a sheriff provides a notice pursuant to this division to the sheriff of one or more other counties in accordance with division (A)(8) of this section, the sheriff of each of the other counties who is provided the notice under division (A)(8) of this section may provide, but is not required to provide, a written notice containing the information set forth in division (B) of this section to the persons identified in divisions (A)(1) to (7) and (A)(9) and (10) of this section.

(3) A sheriff may provide notice under division (A)(1)(a) or (b) of this section, and may provide notice under division (A)(1)(c) of this section to a building manager or person authorized to exercise management and control of a building, by mail, by personal contact, or by leaving the notice at or under the entry door to a residential unit. For purposes of divisions (A)(1)(a) and (b) of this section, and the portion of division (A)(1)(c) of this section relating to the provision of notice to occupants of a multi-unit building by mail or personal contact, the provision of one written notice per unit is deemed as providing notice to all occupants of that unit.

(E) All information that a sheriff possesses regarding an offender or delinquent child who is in a category specified in division (F)(1)(a), (b), or (c) of this section that is described in division (B) of this section and that must be provided in a notice required under division (A) or (C) of this section or that may be provided in a notice authorized under division (D)(2) of this section is a public record that is open to inspection under [section 149.43 of the Revised Code](#).

The sheriff shall not cause to be publicly disseminated by means of the internet any of the information described in this division that is provided by a delinquent child unless that child is in a category specified in division (F)(1)(a), (b), or (c) of this section.

(F)

(1) Except as provided in division (F)(2) of this section, the duties to provide the notices described in divisions (A) and (C) of this section apply regarding any offender or delinquent child who is in any of the following categories:

(a) The offender is a tier III sex offender/child-victim offender, or the delinquent child is a public registry-qualified juvenile offender registrant, and a juvenile court has not removed pursuant to [section 2950.15 of the Revised Code](#) the delinquent child's duty to comply with [sections 2950.04](#), [2950.041](#), [2950.05](#), and [2950.06 of the Revised Code](#).

(b) The delinquent child is a tier III sex offender/child-victim offender who is not a public registry-qualified juvenile offender registrant, the delinquent child was subjected to this section prior to January 1, 2008, as a sexual predator, habitual sex offender, child-victim predator, or habitual child-victim offender, as those terms were defined in [section 2950.01 of the Revised Code](#) as it existed prior to January 1, 2008, and a juvenile court has not removed pursuant to [section 2152.84](#) or [2152.85 of the Revised Code](#) the delinquent child's duty to comply with [sections 2950.04](#), [2950.041](#), [2950.05](#), and [2950.06 of the Revised Code](#).

(c) The delinquent child is a tier III sex offender/child-victim offender who is not a public registry-qualified juvenile offender registrant, the delinquent child was classified a juvenile offender registrant on or after January 1, 2008, the court has imposed a requirement under [section 2152.82](#),

[2152.83](#), or [2152.84 of the Revised Code](#) subjecting the delinquent child to this section, and a juvenile court has not removed pursuant to [section 2152.84](#) or [2152.85 of the Revised Code](#) the delinquent child's duty to comply with [sections 2950.04](#), [2950.041](#), [2950.05](#), and [2950.06 of the Revised Code](#).

(2) The notification provisions of this section do not apply to a person described in division (F)(1)(a), (b), or (c) of this section if a court finds at a hearing after considering the factors described in this division that the person would not be subject to the notification provisions of this section that were in the version of this section that existed immediately prior to January 1, 2008. In making the determination of whether a person would have been subject to the notification provisions under prior law as described in this division, the court shall consider the following factors:

- (a) The offender's or delinquent child's age;
- (b) The offender's or delinquent child's prior criminal or delinquency record regarding all offenses, including, but not limited to, all sexual offenses;
- (c) The age of the victim of the sexually oriented offense for which sentence is to be imposed or the order of disposition is to be made;
- (d) Whether the sexually oriented offense for which sentence is to be imposed or the order of disposition is to be made involved multiple victims;
- (e) Whether the offender or delinquent child used drugs or alcohol to impair the victim of the sexually oriented offense or to prevent the victim from resisting;
- (f) If the offender or delinquent child previously has been convicted of or pleaded guilty to, or been adjudicated a delinquent child for committing an act that if committed by an adult would be, a criminal offense, whether the offender or delinquent child completed any sentence or dispositional order imposed for the prior offense or act and, if the prior offense or act was a sex offense or a sexually oriented offense, whether the offender or delinquent child participated in available programs for sexual offenders;
- (g) Any mental illness or mental disability of the offender or delinquent child;
- (h) The nature of the offender's or delinquent child's sexual conduct, sexual contact, or interaction in a sexual context with the victim of the sexually oriented offense and whether the sexual conduct, sexual contact, or interaction in a sexual context was part of a demonstrated pattern of abuse;
- (i) Whether the offender or delinquent child, during the commission of the sexually oriented offense for which sentence is to be imposed or the order of disposition is to be made, displayed cruelty or made one or more threats of cruelty;
- (j) Whether the offender or delinquent child would have been a habitual sex offender or a habitual child victim offender under the definitions of those terms set forth in [section 2950.01 of the Revised Code](#) as that section existed prior to January 1, 2008;
- (k) Any additional behavioral characteristics that contribute to the offender's or delinquent child's conduct.

(G)

(1) The department of job and family services shall compile, maintain, and update in January and July of each year, a list of all agencies, centers, or homes of a type described in division (A)(2) or (6) of this section that contains the name of each agency, center, or home of that type, the county in which it is located, its address and telephone number, and the name of an administrative officer or employee of the agency, center, or home.

(2)The department of education shall compile, maintain, and update in January and July of each year, a list of all boards of education, schools, or programs of a type described in division (A)(3), (4), or (5) of this section that contains the name of each board of education, school, or program of that type, the county in which it is located, its address and telephone number, the name of the superintendent of the board or of an administrative officer or employee of the school or program, and, in relation to a board of education, the county or counties in which each of its schools is located and the address of each such school.

(3)The Ohio board of regents shall compile, maintain, and update in January and July of each year, a list of all institutions of a type described in division (A)(7) of this section that contains the name of each such institution, the county in which it is located, its address and telephone number, and the name of its president or other chief administrative officer.

(4)A sheriff required by division (A) or (C) of this section, or authorized by division (D)(2) of this section, to provide notices regarding an offender or delinquent child, or a designee of a sheriff of that type, may request the department of job and family services, department of education, or Ohio board of regents, by telephone, in person, or by mail, to provide the sheriff or designee with the names, addresses, and telephone numbers of the appropriate persons and entities to whom the notices described in divisions (A)(2) to (7) of this section are to be provided. Upon receipt of a request, the department or board shall provide the requesting sheriff or designee with the names, addresses, and telephone numbers of the appropriate persons and entities to whom those notices are to be provided.

(H)

(1)Upon the motion of the offender or the prosecuting attorney of the county in which the offender was convicted of or pleaded guilty to the sexually oriented offense or child-victim oriented offense for which the offender is subject to community notification under this section, or upon the motion of the sentencing judge or that judge's successor in office, the judge may schedule a hearing to determine whether the interests of justice would be served by suspending the community notification requirement under this section in relation to the offender. The judge may dismiss the motion without a hearing but may not issue an order suspending the community notification requirement without a hearing. At the hearing, all parties are entitled to be heard, and the judge shall consider all of the factors set forth in division (K) of this section. If, at the conclusion of the hearing, the judge finds that the offender has proven by clear and convincing evidence that the offender is unlikely to commit in the future a sexually oriented offense or a child-victim oriented offense and if the judge finds that suspending the community notification requirement is in the interests of justice, the judge may suspend the application of this section in relation to the offender. The order shall contain both of these findings.

The judge promptly shall serve a copy of the order upon the sheriff with whom the offender most recently registered under [section 2950.04](#), [2950.041](#), or [2950.05 of the Revised Code](#) and upon the bureau of criminal identification and investigation.

An order suspending the community notification requirement does not suspend or otherwise alter an offender's duties to comply with [sections 2950.04](#), [2950.041](#), [2950.05](#), and [2950.06 of the Revised Code](#) and does not suspend the victim notification requirement under [section 2950.10 of the Revised Code](#).

(2)A prosecuting attorney, a sentencing judge or that judge's successor in office, and an offender who is subject to the community notification requirement under this section may initially make a motion under division (H)(1) of this section upon the expiration of twenty years after the offender's duty to comply with division (A)(2), (3), or (4) of [section 2950.04](#), division (A)(2), (3), or (4) of [section 2950.041](#) and [sections 2950.05](#) and [2950.06 of the Revised Code](#) begins in relation to the offense for which the offender is subject to community notification. After the initial making of a motion under

division (H)(1) of this section, thereafter, the prosecutor, judge, and offender may make a subsequent motion under that division upon the expiration of five years after the judge has entered an order denying the initial motion or the most recent motion made under that division.

(3)The offender and the prosecuting attorney have the right to appeal an order approving or denying a motion made under division (H)(1) of this section.

(4)Divisions (H)(1) to (3) of this section do not apply to any of the following types of offender:

(a)A person who is convicted of or pleads guilty to a violent sex offense or designated homicide, assault, or kidnapping offense and who, in relation to that offense, is adjudicated a sexually violent predator;

(b)A person who is convicted of or pleads guilty to a sexually oriented offense that is a violation of division (A)(1)(b) of [section 2907.02 of the Revised Code](#) committed on or after January 2, 2007, and either who is sentenced under [section 2971.03 of the Revised Code](#) or upon whom a sentence of life without parole is imposed under division (B) of [section 2907.02 of the Revised Code](#);

(c)A person who is convicted of or pleads guilty to a sexually oriented offense that is attempted rape committed on or after January 2, 2007, and who also is convicted of or pleads guilty to a specification of the type described in [section 2941.1418](#), [2941.1419](#), or [2941.1420 of the Revised Code](#);

(d)A person who is convicted of or pleads guilty to an offense described in division (B)(3)(a), (b), (c), or (d) of [section 2971.03 of the Revised Code](#) and who is sentenced for that offense pursuant to that division;

(e)An offender who is in a category specified in division (F)(1)(a), (b), or (c) of this section and who, subsequent to being subjected to community notification, has pleaded guilty to or been convicted of a sexually oriented offense or child-victim oriented offense.

(I)If a person is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to a sexually oriented offense or a child-victim oriented offense or a person is or has been adjudicated a delinquent child for committing a sexually oriented offense or a child-victim oriented offense and is classified a juvenile offender registrant or is an out-of-state juvenile offender registrant based on that adjudication, and if the offender or delinquent child is not in any category specified in division (F)(1)(a), (b), or (c) of this section, the sheriff with whom the offender or delinquent child has most recently registered under [section 2950.04](#), [2950.041](#), or [2950.05 of the Revised Code](#) and the sheriff to whom the offender or delinquent child most recently sent a notice of intent to reside under [section 2950.04](#) or [2950.041 of the Revised Code](#), within the period of time specified in division (D) of this section, shall provide a written notice containing the information set forth in division (B) of this section to the executive director of the public children services agency that has jurisdiction within the specified geographical notification area and that is located within the county served by the sheriff.

(J)Each sheriff shall allow a volunteer organization or other organization, company, or individual who wishes to receive the notice described in division (A)(10) of this section regarding a specific offender or delinquent child or notice regarding all offenders and delinquent children who are located in the specified geographical notification area to notify the sheriff by electronic mail or through the sheriff's web site of this election. The sheriff shall promptly inform the bureau of criminal identification and investigation of these requests in accordance with the forwarding procedures adopted by the attorney general pursuant to [section 2950.13 of the Revised Code](#).

(K)In making a determination under division (H)(1) of this section as to whether to suspend the community notification requirement under this section for an offender, the judge shall consider all relevant factors, including, but not limited to, all of the following:

- (1)The offender's age;
- (2)The offender's prior criminal or delinquency record regarding all offenses, including, but not limited to, all sexually oriented offenses or child-victim oriented offenses;
- (3)The age of the victim of the sexually oriented offense or child-victim oriented offense the offender committed;
- (4)Whether the sexually oriented offense or child-victim oriented offense the offender committed involved multiple victims;
- (5)Whether the offender used drugs or alcohol to impair the victim of the sexually oriented offense or child-victim oriented offense the offender committed or to prevent the victim from resisting;
- (6)If the offender previously has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for committing an act that if committed by an adult would be a criminal offense, whether the offender completed any sentence or dispositional order imposed for the prior offense or act and, if the prior offense or act was a sexually oriented offense or a child-victim oriented offense, whether the offender or delinquent child participated in available programs for sex offenders or child-victim offenders;
- (7)Any mental illness or mental disability of the offender;
- (8)The nature of the offender's sexual conduct, sexual contact, or interaction in a sexual context with the victim of the sexually oriented offense the offender committed or the nature of the offender's interaction in a sexual context with the victim of the child-victim oriented offense the offender committed, whichever is applicable, and whether the sexual conduct, sexual contact, or interaction in a sexual context was part of a demonstrated pattern of abuse;
- (9)Whether the offender, during the commission of the sexually oriented offense or child-victim oriented offense the offender committed, displayed cruelty or made one or more threats of cruelty;
- (10)Any additional behavioral characteristics that contribute to the offender's conduct.

(L)As used in this section, "specified geographical notification area" means the geographic area or areas within which the attorney general, by rule adopted under [section 2950.13 of the Revised Code](#), requires the notice described in division (B) of this section to be given to the persons identified in divisions (A)(2) to (8) of this section.

History

[146 v H 180](#) (Eff 7-1-97); [147 v H 396](#) (Eff 1-30-98); [147 v H 565](#) (Eff 3-30-99); [148 v H 471](#) (Eff 7-1-2000); [149 v S 3](#) (Eff 1-1-2002); [149 v S 175](#) (Eff 5-7-2002); [149 v H 485](#). Eff 6-13-2002; [150 v S 5](#), § 1, Eff 7-31-03; [150 v H 473](#), § 1, eff. 4-29-05; [151 v H 15](#), § 1, eff. 11-23-05; [151 v S 17](#), § 1, eff. 8-3-06; [151 v S 260](#), § 1, eff. 1-2-07; [152 v S 10](#), § 1, eff. 1-1-08; [2012 SB 316](#), § 120.01, eff. Jan. 1, 2014.

Annotations

Notes

Amendment Notes

The 2012 amendment, in (A)(6), substituted “each holder of a license to operate a” for “and the provider of each certified” in the first sentence and substituted “type B family day-care home” for “certified type B family day-care home” in the second sentence; substituted “January 1, 2008” for “the effective date of this amendment” wherever it appears in (F)(1)(b), (F)(1)(c), and (F)(2)(j) and the introductory language of (F)(2); inserted “offense” in (K)(5); and made a stylistic change.

152 v S 10, effective January 1, 2008, rewrote the section.

151 v S 260, effective January 2, 2007, rewrote (H)(4).

151 v S 17, effective August 3, 2006, added (I); and made minor stylistic changes.

151 v H 15, effective November 23, 2005, added (B)(5).

Notes to Decisions

Community notification

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Community notification

Trial court properly found community notification was appropriate for defendant, as he was classified as a Tier III sexual offender, the prosecutor presented information relative to each of the statutory factors, and defendant did not offer any information or opposition to such notification. [*State v. Morrin*, 2014-Ohio-5594, 2014 Ohio App. LEXIS 5392 \(Ohio Ct. App., Lucas County 2014\)](#).

As the trial court did not comply with the statutory requirements so as to exclude defendant from community notification, he was subject to such notification. [*State v. Henson*, 2014-Ohio-3994, 19 N.E.3d 559, 2014 Ohio App. LEXIS 3909 \(Ohio Ct. App., Butler County 2014\)](#).

As the trial court misinformed defendant during the plea colloquy that he was not subject to the community notification requirements for a Tier III sex offender, his guilty plea to sexual battery was not knowingly, intelligently, and voluntarily entered. [*State v. Henson*, 2014-Ohio-3994, 19 N.E.3d 559, 2014 Ohio App. LEXIS 3909 \(Ohio Ct. App., Butler County 2014\)](#).

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Constitutionality

Retroactive application of Senate Bill 10, enacted in 2007 concerning tier classification and registration requirements for sex offenders, does not violate the prohibition on retroactive laws, due process, double jeopardy, or the separation of powers doctrine: [*Sewell v. State*, 2009-Ohio-872, 181 Ohio App. 3d 280, 908 N.E.2d 995, 2009 Ohio App. LEXIS 711 \(Ohio Ct. App., Hamilton County 2009\)](#).

Senate Bill 5 amendments to R.C. Chapter 2950 do not violate the ex post facto and retroactivity provisions of the United States and Ohio Constitutions: [*State v. Ferguson*, 2008-Ohio-4824, 120 Ohio St. 3d 7, 896 N.E.2d 110, 2008 Ohio LEXIS 2589 \(Ohio 2008\)](#).

Applicability

Community-notification provisions of [*R.C. 2950.11\(F\)\(2\)*](#) applied to defendants who were notified of their sexual-offender status after January 1, 2008, the effective date of the amendment of that section. [*State v. McConville*, 2010-Ohio-958, 124 Ohio St. 3d 556, 925 N.E.2d 133, 2010 Ohio LEXIS 713 \(Ohio 2010\)](#).

Trial court erred in denying a convicted sex offender's petition to contest his sexual offender reclassification under Ohio's Adam Walsh Act where his reclassification as a Tier III offender pursuant to [*R.C. 2950.032*](#) was

unconstitutional because the reclassification provisions set forth in [R.C. 2950.031](#) and [2950.032](#) had been found unconstitutional by the Supreme Court of Ohio, as they violated the separation-of-powers doctrine, and they had been severed and made unenforceable. The offender's prior classification as a sexual predator had to be reinstated, and, as a sexual predator, he was subject to community notification pursuant to former [R.C. 2950.11](#). [State v. Miliner, 2010-Ohio-6117, 2010 Ohio App. LEXIS 5133 \(Ohio Ct. App., Franklin County 2010\)](#).

Community notification provisions of [R.C. 2950.11\(F\)\(2\)](#) apply to defendants who are notified of their sexual offender status after January 1, 2008, the effective date of the amendment of that section by 2007 Am.Sub.S.B. No. 10: [State v. McConville, 2010-Ohio-958, 124 Ohio St. 3d 556, 925 N.E.2d 133, 2010 Ohio LEXIS 713 \(Ohio 2010\)](#).

Pursuant to [R.C. 2950.11\(F\)\(1\)](#), community notification requirements do not attach to a Tier II classification. [Hungerford v. State, 2009-Ohio-6997, 2009 Ohio App. LEXIS 5882 \(Ohio Ct. App., Lake County 2009\)](#), rev'd, in part, [2010-Ohio-3753, 126 Ohio St. 3d 322, 933 N.E.2d 801, 2010 Ohio LEXIS 1931 \(Ohio 2010\)](#).

Juvenile court lacked authority under [R.C. 2950.11\(A\)](#) and [2152.83\(C\)\(2\)](#) to impose community notification provisions on appellant juvenile after he was classified as a Tier II juvenile sex offender registrant, as the notification provisions could only be imposed upon a Tier III offender; as the classification was unchallenged, it did not have to be vacated, as did the community notification requirement. [In re P.M., 2009-Ohio-1694, 182 Ohio App. 3d 168, 912 N.E.2d 130, 2009 Ohio App. LEXIS 1419 \(Ohio Ct. App., Cuyahoga County 2009\)](#).

Sex offender who was reclassified as a tier II sex offender could not claim that community notification provisions of R.C. ch. 2950, as amended by Am. Sub. S.B. 10, Gen. Assem. (Ohio 2007), could not be applied to the offender pursuant to [R.C. 2950.11\(F\)\(2\)](#) because tier II sex offenders were not subject to community notification. [Spangler v. State, 2009-Ohio-3178, 2009 Ohio App. LEXIS 2783 \(Ohio Ct. App., Lake County 2009\)](#), aff'd, [2010-Ohio-3753, 126 Ohio St. 3d 322, 933 N.E.2d 801, 2010 Ohio LEXIS 1931 \(Ohio 2010\)](#).

Inmate did not show the inmate was exempt, pursuant to [R.C. 2950.11\(F\)\(2\)](#), from the community notification provisions of R.C. ch. 2950, as amended by Am. Sub. S.B. 10, Gen. Assem. (Ohio 2007) (S.B. 10), because the inmate would have automatically been subject to community notification under the version of R.C. ch. 2950 that existed immediately prior to the version that was amended by S.B. 10, since the inmate was classified as a sexual predator under the prior law. [Naples v. State, 2009-Ohio-3938, 2009 Ohio App. LEXIS 3393 \(Ohio Ct. App., Trumbull County 2009\)](#), aff'd, [2010-Ohio-3753, 126 Ohio St. 3d 322, 933 N.E.2d 801, 2010 Ohio LEXIS 1931 \(Ohio 2010\)](#).

If a previously convicted sex offender had the benefit of a hearing pursuant to former [R.C. 2950.09](#) and was found by a court not to be a sexual predator, the community-notification provisions of [R.C. 2950.11](#) do not apply. [State v. Toles, 2008 Ohio Misc. LEXIS 316 \(Ohio C.P. Sept. 9, 2008\)](#), rev'd, [2010-Ohio-2772, 2010 Ohio App. LEXIS 2270 \(Ohio Ct. App., Franklin County 2010\)](#).

If offenders for whom the State of Ohio sought a sexual-predator determination were adjudged not to warrant such a designation and are not subject to the community-notification requirements, consistency dictates that those for whom the State did not even seek a sexual-predator determination should likewise not be subject to the community-notification requirements. [State v. Toles, 2008 Ohio Misc. LEXIS 316 \(Ohio C.P. Sept. 9, 2008\)](#), rev'd, [2010-Ohio-2772, 2010 Ohio App. LEXIS 2270 \(Ohio Ct. App., Franklin County 2010\)](#).

If a sex offender previously had the benefit of a hearing pursuant to former [R.C. 2950.09](#) and was found to be a sexual predator, the community-notification provisions of [R.C. 2950.11](#) apply unless suspended following a hearing held pursuant to [R.C. 2950.11\(H\)](#). [State v. Toles, 2008 Ohio Misc. LEXIS 316 \(Ohio C.P. Sept. 9, 2008\)](#), rev'd, [2010-Ohio-2772, 2010 Ohio App. LEXIS 2270 \(Ohio Ct. App., Franklin County 2010\)](#).

Burden of proof

Appellant inmate's challenge to his sexual offender reclassification under the Ohio Adam Walsh Child Protection and Safety Act, Am. Sub. S.B. 10, Gen. Assem. (Ohio 2007), was properly denied as lacking in merit, as there was no constitutional violation under U.S. Const. art. I, § 10 and Ohio Const. art. II, § 28 by the retroactive application of the Act to the inmate, his due process claim as to the residency restrictions was not ripe for consideration, and he failed to meet his burden of proof with respect to a claim that the community notification requirements did not apply to him under [R.C. 2950.11\(F\)\(2\)](#). *State v. Musser*, 2009-Ohio-4979, 2009 Ohio App. LEXIS 4214 (Ohio Ct. App., Ross County 2009).

Community notification

Particular way in which the trial court's judgment entry was worded made it unclear whether it felt it had no alternative but to impose the statutory requirements for sex offender community notification by the juvenile, or whether it was merely exercising its discretion in imposing those requirements. *In re L.O.*, 2014-Ohio-2125, 2014 Ohio App. LEXIS 2066 (Ohio Ct. App., Marion County 2014).

Defendant did not enter a knowing plea to two counts of sexual battery, because the trial court failed to inform him of any of the community notification requirements stemming from his classification as a tier III sex offender. *State v. Hines*, 2014-Ohio-1996, 2014 Ohio App. LEXIS 1941 (Ohio Ct. App., Erie County 2014).

Appellant was subject to community notification under [R.C. 2950.11\(F\)\(2\)](#) for two counts of rape of his minor sister under [R.C. 2907.02\(A\)\(1\)\(b\)](#) and (B) because the cruelty of the abuse was evident in the victim's letter to the trial court, and appellant's family, despite knowing that the abuse was taking place, never attempted to stop it. *State v. Kerekgyarto*, 2013-Ohio-2805, 2013 Ohio App. LEXIS 2859 (Ohio Ct. App., Lucas County 2013).

After a juvenile entered an admission to gross sexual imposition for having sexual contact with a child less than thirteen years of age, the juvenile court did not abuse its discretion in classifying the juvenile as a tier III sex offender and in imposing community notification, under [R.C. 2152.83\(C\)\(2\)](#), because the juvenile displayed many high risk factors under [R.C. 2152.83](#) and [2152.831\(A\)](#), including that (1) the offense was not a one-time, spontaneous offense as the juvenile was adjudicated a delinquent for exposing himself to two young children; (2) the juvenile resisted treatment and instead planned the anal rape of the juvenile's best friend's eight-year-old sister, a prepubescent child seven years younger than the juvenile; (3) the juvenile, for practice, assaulted a seven-year-old boy who was friends with the juvenile's younger brother; and (4) the juvenile assaulted the eight-year-old female child at least eight times over many months. *In re Q.J.*, 2012-Ohio-4210, 2012 Ohio App. LEXIS 3700 (Ohio Ct. App., Belmont County 2012).

Pursuant to [R.C. 2950.11\(F\)\(2\)](#), the trial court should have relieved defendant of the notification requirements because, although he was now classified as a Tier III offender, he was exempt from community notification under the Adam Walsh Child Protection and Safety Act of 2006 since he was not subject to community notification under the former statute. *In re J.M.*, 2009-Ohio-2880, 2009 Ohio App. LEXIS 2432 (Ohio Ct. App., Cuyahoga County 2009), rev'd, in part, 2010-Ohio-3753, 126 Ohio St. 3d 322, 933 N.E.2d 801, 2010 Ohio LEXIS 1931 (Ohio 2010).

Trial court exceeded its statutory authority by subjecting defendant to the community notification requirements of [R.C. 2950.01](#). Although, pursuant to § [2950.01\(E\)\(1\)\(c\)](#), the trial court properly classified defendant as a Tier I Sex Offender, Tier I Sex Offenders were not subject to the community notification requirements of [R.C. 2950.11](#). *State v. Day*, 2009-Ohio-3755, 2009 Ohio App. LEXIS 3188 (Ohio Ct. App., Adams County 2009), rev'd, 2011-Ohio-5348, 130 Ohio St. 3d 254, 957 N.E.2d 289, 2011 Ohio LEXIS 2649 (Ohio 2011).

When appellant, a juvenile, admitted delinquency by reason of rape, under [R.C. 2907.02\(A\)\(1\)\(b\)](#), it was not an abuse of discretion to impose community notification requirements under [R.C. 2152.83\(C\)\(2\)](#), because, under prior law, [R.C. 2950.11\(F\)\(1\)](#), community notification applied to a child who committed an aggravated sexually oriented offense, which included appellant's crime, so the trial court did not have to find that he was a sexual predator or habitual sexual offender to impose community notification. [In re S.R.B., 2008-Ohio-6340, 2008 Ohio App. LEXIS 5281 \(Ohio Ct. App., Miami County 2008\)](#), overruled in part, [In re C.A., 2009-Ohio-3303, 2009 Ohio App. LEXIS 2856 \(Ohio Ct. App., Montgomery County 2009\)](#).

Evidence

In a case where a convicted sex offender was challenging his reclassification under the amendments to R.C. ch. 2950, an appellate court presumed the regularity of the trial court's proceedings; there was no evidence to substantiate the offender's claim that, if he had not been erroneously told that he was not allowed to bring his legal research, he would have submitted evidence that the factors outlined in [R.C. 2950.11\(F\)\(2\)](#) prevented the trial court from subjecting him to community notification requirements. The only evidence offered was an affidavit attached to the appellate brief, and this was not part of the record. [State v. Haugh, 2009-Ohio-6961, 2009 Ohio App. LEXIS 5841 \(Ohio Ct. App., Ross County 2009\)](#).

When an offender was reclassified as a tier III sex offender pursuant to Am. Sub. S.B. 10, Gen. Assem. (Ohio 2007), and sought relief from the community notification requirements of [R.C. 2950.11](#), it was no error to deny the offender's motion because, (1) under [R.C. 2950.031](#), the offender had the burden of proving, by clear and convincing evidence, that the community notification requirements did not apply to the offender, and (2) the offender did not meet the offender's burden of proof, as the offender presented no evidence. [State v. Pletcher, 2009-Ohio-1819, 2009 Ohio App. LEXIS 1533 \(Ohio Ct. App., Ross County 2009\)](#).

Trial court's classification of defendant inmate as a sexual predator was not sufficiently supported where the trial court did not indicate why it believed that the inmate was likely to commit sexually oriented offenses in the future; the determination was to be made under former [R.C. 2950.09](#), as the amendments to the statutory scheme had not yet become effective. [State v. Clay, 2008-Ohio-2980, 177 Ohio App. 3d 78, 893 N.E.2d 909, 2008 Ohio App. LEXIS 2501 \(Ohio Ct. App., Hamilton County 2008\)](#).

Defendant was properly classified as a habitual sexual offender and ordered to register as such and comply with the community notification provisions as he had a prior conviction for rape and pled guilty to sexual battery; the trial court considered the factors set forth in former [R.C. 2950.09\(B\)\(3\)](#) (repealed January 1, 2008) and the record was replete with the court's understanding of the present offense, defendant's previous criminal history, his failed incarceration and rehabilitative measures, and his lack of remorse. [State v. Cooper, 2005-Ohio-3424, 2005 Ohio App. LEXIS 3192 \(Ohio Ct. App., Cuyahoga County 2005\)](#), rev'd, in part, [2006-Ohio-2109, 109 Ohio St. 3d 313, 847 N.E.2d 1174, 2006 Ohio LEXIS 1161 \(Ohio 2006\)](#).

Exemption

Because [R.C. 2950.11\(F\)\(2\)](#) required the trial court to make a finding about whether to exempt defendant from community notification requirements "at a hearing after considering the factors" described in the statute, the trial court erred by exempting him from community notification without first holding a hearing and considering the statutory factors. [State v. Downing, 2009-Ohio-6482, 2009 Ohio App. LEXIS 5428 \(Ohio Ct. App., Franklin County 2009\)](#), vacated, [2010-Ohio-3753, 126 Ohio St. 3d 322, 933 N.E.2d 801, 2010 Ohio LEXIS 1931 \(Ohio 2010\)](#).

Where no hearing was held before an offender was designated as a sexually oriented offender under prior law, [R.C. 2950.11\(F\)\(2\)](#) requires a trial court to hold a hearing and consider statutory factors before exempting the offender from community notification requirements. [State v. Downing, 2009-Ohio-6482, 2009 Ohio App. LEXIS 5428 \(Ohio Ct. App., Franklin County 2009\)](#), vacated, [2010-Ohio-3753, 126 Ohio St. 3d 322, 933 N.E.2d 801, 2010 Ohio LEXIS 1931 \(Ohio 2010\)](#).

Exemption not appropriate

There was no abuse of discretion in declining to exclude defendant, a Tier III sex offender, from community notification upon his conviction for rape, as the trial court carefully considered the evidence, including that defendant committed a separate, unrelated sexual offense, and the victim was defendant's 12-year-old daughter. [State v. Starks, 2017-Ohio-40, 80 N.E.3d 1087, 2017 Ohio App. LEXIS 51 \(Ohio Ct. App., Lucas County 2017\)](#).

Trial court's decision that appellant was not exempt from the community notification requirements in former [R.C. 2950.11\(F\)\(2\)\(a\)](#)-(k) was not against the manifest weight of the evidence where a psychologist found that appellant was in the moderate to high risk category for reoffending, and there was a higher risk of recidivism due to appellant's age. Further, the offenses were committed while appellant was babysitting the victim or while family members were sleeping, appellant placed duct tape and his hand over the victim's mouth, he threatened the victim and his family with harm, and he engaged in the charged offenses several times. [State v. Boerio, 2010-Ohio-6215, 2010 Ohio App. LEXIS 5213 \(Ohio Ct. App., Lucas County 2010\)](#).

Former provisions

Because classification under former R.C. Chapter 2950 as a sexually oriented offender would exempt a sex offender from amended R.C. Chapter 2950's community notification provisions, the offender's contention that he should have been classified as a sexually oriented offender was not moot. Trial court's statement that it based the sexual predator adjudication on "all the evidence I have in regards to this particular case" was insufficient to support the adjudication, particularly when it was the offender's only sexually oriented offense: [State v. Clay, 2008-Ohio-2980, 177 Ohio App. 3d 78, 893 N.E.2d 909, 2008 Ohio App. LEXIS 2501 \(Ohio Ct. App., Hamilton County 2008\)](#).

Hearing

Trial court did not err in dismissing defendant's motion for a hearing to determine whether he should be exempted from the community-notification requirements. Because he did not request a hearing, and the trial court did not sua sponte hold a hearing, at or before the time of sentencing, he was not entitled to a hearing. [State v. Thomas, 2016-Ohio-501, 56 N.E.3d 432, 2016 Ohio App. LEXIS 429 \(Ohio Ct. App., Hamilton County 2016\)](#).

Hearing to determine whether the Tier III sex offender was subject to community notification was not required because he did not satisfy the community notification exception set forth in [R.C. 2950.11\(F\)\(2\)](#). The offender was originally classified as a sexual predator, and thus, was subject to community notification. [State v. Gillingham, 2010-Ohio-379, 2010 Ohio App. LEXIS 321 \(Ohio Ct. App., Montgomery County 2010\)](#).

Trial court summarily denied defendant's motion for exclusion, right before he was sentenced, and there was no hearing regarding the [R.C. 2950.11\(F\)\(2\)](#) factors, nor was there any evidence suggesting that the court considered these factors; thus, the trial court erred in denying his motion pursuant to § [2950.11\(F\)\(2\)](#). [State v. Boerio, 2009-Ohio-5181, 2009 Ohio App. LEXIS 4360 \(Ohio Ct. App., Lucas County 2009\)](#).

Trial court did not abuse its discretion in denying an inmate's request for a hearing under the Sexual Offender Registration and Notification Act, [R.C. 2950.11\(F\)\(2\)](#), because the trial court was not required to hold a hearing pursuant to § [2950.11\(F\)\(2\)](#), and upon dismissal, was not required to issue findings of fact; it is within the trial court's discretion to hold a hearing pursuant to § [2950.11](#) to determine whether community notifications for certain offenders should be considered, and further, the trial court may dismiss the motion without holding a hearing, but the trial court may not issue an order suspending the community notification requirements without holding a hearing and considering all the relevant factors. [State v. Dehler, 2009-Ohio-5059, 2009 Ohio App. LEXIS 4320 \(Ohio Ct. App., Trumbull County 2009\)](#), rev'd, [2011-Ohio-5347, 130 Ohio St. 3d 259, 957 N.E.2d 292, 2011 Ohio LEXIS 2643 \(Ohio 2011\)](#).

Trial court erred by concluding that the issue of community sex offender notification had been resolved in the offender's favor on the basis of res judicata in lieu of conducting the legislatively authorized hearing pursuant to [R.C. 2950.11\(F\)\(2\)](#). Given the remedial nature of the statute in furtherance of the legislature's goal to protect the safety and general welfare of the public, the trial court was not free to graft upon the statute a mechanism to be used to defeat the legislative intent. [State v. Gruszka, 2009-Ohio-3926, 2009 Ohio App. LEXIS 3358 \(Ohio Ct. App., Lorain County 2009\)](#), vacated, [2010-Ohio-3753, 126 Ohio St. 3d 322, 933 N.E.2d 801, 2010 Ohio LEXIS 1931 \(Ohio 2010\)](#).

Sentencing court erred when it denied defendant's motion to exclude him from the community notification provisions of Am. Sub. S.B. 10, Gen. Assem. (Ohio 2008), based on his request pursuant to [R.C. 2950.11\(F\)\(2\)](#), as he was designated as a Tier III sex offender immediately after S.B. 10 went into effect and the sentencing court should have held a hearing to determine whether he would not have been subject to community notification under the version of § [2950.11](#) that existed immediately prior to its amendment by S.B. 10. [State v. Stockman, 2009-Ohio-266, 2009 Ohio App. LEXIS 238 \(Ohio Ct. App., Lucas County 2009\)](#).

Offender was not constitutionally entitled to a hearing before being designated a sexually oriented offender, but, rather, that designation attached as a matter of law, and defendant could not have presented anything at a hearing to prevent the designation. Defendant's argument that the trial court erred in failing to hold a hearing before designating him as a sexually oriented offender was without merit, even if defendant would have been able to show that the trial court failed to hold such a hearing. [State v. Lenigar, 2005-Ohio-1322, 2005 Ohio App. LEXIS 1318 \(Ohio Ct. App., Mahoning County 2005\)](#).

Ineffective assistance

Even if counsel was ineffective, in violation of U.S. Const. amend. XIV and *Ohio Const. art. I, § 10* in failing to advise the trial court that, in order to classify appellant juvenile as a juvenile sex offender registrant, it had to do so upon the juvenile's release from a secure facility as set forth in [R.C. 2152.83\(A\)](#), and in failing to advise the court that it had to consider the factors set forth in [R.C. 2950.11\(E\)\(2\)\(a\)-\(k\)](#), the juvenile failed to establish that he was prejudiced thereby, as the juvenile sex offender registrant classification was reversed on appeal. [In re Kristopher W., 2008-Ohio-6075, 2008 Ohio App. LEXIS 5084 \(Ohio Ct. App., Tuscarawas County 2008\)](#).

Juveniles

Juvenile court did not abuse its discretion in imposing community notification on defendant juvenile, as a juvenile offender registrant, because the magistrate and the juvenile court carefully considered all relevant evidence in light of the factors listed in the juvenile statute, which largely tracked the factors in the adult sex offender statute. [In re R.M., 2014-Ohio-1200, 2014 Ohio App. LEXIS 1125 \(Ohio Ct. App., Hamilton County 2014\)](#).

Trial court's determination under [R.C. 2152.82\(B\)\(4\)](#) and [2950.11\(F\)](#) that appellant juvenile be subject to community notification was not an abuse of discretion, as the trial court based that determination on the factual circumstances of the case. [In re B.T., 2011-Ohio-5299, 2011 Ohio App. LEXIS 4371 \(Ohio Ct. App., Morrow County 2011\)](#).

Because the trial court erred in failing to conduct a hearing prior to classifying a juvenile pursuant to [R.C. 2152.82](#) or [2152.83](#) to determine to which tier the juvenile belonged, and in finding that the notification requirement of [R.C. 2950.11](#) was automatic, the matter had to be remanded for further proceedings. [In re R.D., 2010-Ohio-2986, 2010 Ohio App. LEXIS 2500 \(Ohio Ct. App., Licking County 2010\)](#).

Trial court did not abuse its discretion in failing to conduct a hearing pursuant to [R.C. 2950.11\(F\)\(2\)](#) to determine a juvenile's community notification status where the record established that no request for such a hearing was ever made and a clear reading of the statute showed that a hearing was discretionary, not mandatory. [In re J. B. A., 2010-Ohio-6564, 2010 Ohio App. LEXIS 5414 \(Ohio Ct. App., Licking County 2010\)](#), rev'd, [2011-Ohio-5349, 130 Ohio St. 3d 253, 957 N.E.2d 288, 2011 Ohio LEXIS 2648 \(Ohio 2011\)](#).

Juvenile court has no authority under R.C. § § [2950.11\(A\)](#) and [2152.83\(C\)\(2\)](#) to impose community notification on a juvenile classified as a Tier II juvenile sex offender: [In re P.M., 2009-Ohio-1694, 182 Ohio App. 3d 168, 912 N.E.2d 130, 2009 Ohio App. LEXIS 1419 \(Ohio Ct. App., Cuyahoga County 2009\)](#).

Mootness

Sex offender's claim that the offender could not be subject to the community notification provisions of [R.C. 2950.11](#) pursuant to [R.C. 2950.11\(F\)\(2\)](#), since the offender was not subject to such a requirement under prior law, was moot because (1) the offender was reclassified as a tier II sex offender, and (2) only tier III sex offenders were subject to the community notification requirement. [Downing v. State, 2009-Ohio-1834, 2009 Ohio App. LEXIS 1534 \(Ohio Ct. App., Logan County 2009\)](#).

Plea colloquy

With respect to defendant's guilty plea to pandering obscenity involving a minor, although the trial court failed to inform defendant of any community notification requirements its in colloquy prior to accepting his guilty plea, he was not subject to such notification requirements because he was a Tier II offender. [State v. Gilbert, 2018-Ohio-879, 96 N.E.3d 360, 2018 Ohio App. LEXIS 934 \(Ohio Ct. App., Sandusky County 2018\)](#).

As the trial court did not inform defendant during the plea colloquy of the requirements pertaining to sex offender community notifications and residency restrictions, it failed to comply with the colloquy requirements, such that it was unclear whether his guilty plea was involuntary. [State v. Gilbert, 2017-Ohio-4468, 2017 Ohio App. LEXIS 2524 \(Ohio Ct. App., Sandusky County 2017\)](#).

Defendant's guilty plea was not knowingly and voluntarily made where the sentencing judge stated that the Tier III sex offender classification requirements could be discussed in detail and that defendant would receive a written copy of the obligations for execution, and then advised defendant of the lifetime registration and verification requirements; the court failed to notify defendant of the community notification requirements and the residential restrictions, and even if the written explanation mentioned at the hearing included this information, the trial court did not satisfy its obligation to personally inform defendant of the penalties. [State v. Dangler, 2017-Ohio-7981, 2017 Ohio App. LEXIS 4328 \(Ohio Ct. App., Williams County 2017\)](#).

Defendant's guilty plea was not knowingly and voluntarily made where the sentencing judge stated that the Tier III sex offender classification requirements could be discussed in detail and that defendant would receive a written copy of the obligations for execution, and then advised defendant of the lifetime registration and verification requirements; the court failed to notify defendant of the community notification requirements and the residential restrictions, and even if the written explanation mentioned at the hearing included this information, the trial court did not satisfy its obligation to personally inform defendant of the penalties. [*State v. Dangler*, 2017-Ohio-7981, 2017 Ohio App. LEXIS 4328 \(Ohio Ct. App., Williams County 2017\)](#).

Pleas

As the trial court failed to inform defendant that upon her Alford plea to gross sexual imposition charges, there would be community notifications and residential restrictions due to being classified as a child victim offender, it completely failed to comply with the colloquy requirements, such that vacatur of the plea without a need to show prejudice was warranted. [*State v. Ragusa*, 2016-Ohio-3373, 2016 Ohio App. LEXIS 2235 \(Ohio Ct. App., Lucas County 2016\)](#).

Prejudice

Active community notification for Tier I and Tier II sexual offenders was not provided for in Am. Sub. S.B. 10, Gen. Assem. (Ohio 2007). Defendant's registration status was a public record which could be compiled and made available through other means, but that represented no change from prior law; thus, the community notification provisions of S.B. 10 did not operate to defendant's prejudice. [*Montgomery v. Leffler*, 2008-Ohio-6397, 2008 Ohio App. LEXIS 5334 \(Ohio Ct. App., Huron County 2008\)](#).

Relief

When sex offenders sought relief from community notification, under [*R.C. 2950.11\(F\)\(2\)*](#), the offenders did not have to show that the offenders were entitled to such relief by clear and convincing evidence because [*R.C. 2950.031*](#) and [*2950.032*](#), under which sex offender challenging the offenders' reclassifications or registration duties under R.C. ch. 2950, as amended by Am. Sub. S.B. 10, Gen. Assem. (Ohio 2007) (S.B. 10), had to show by clear and convincing evidence that the reclassification or registration requirements did not apply, only applied when an offender was reclassified under S.B. 10, so these provisions did not apply to the community notification hearing provided in [*R.C. 2950.11\(F\)\(2\)*](#). [*Gildersleeve v. State*, 2009-Ohio-2031, 2009 Ohio App. LEXIS 1727 \(Ohio Ct. App., Cuyahoga County 2009\)](#), rev'd, in part, [*2010-Ohio-3753*, 126 Ohio St. 3d 322, 933 N.E.2d 801, 2010 Ohio LEXIS 1931 \(Ohio 2010\)](#).

When sex offenders sought relief from community notification, under [*R.C. 2950.11\(F\)\(2\)*](#), the offenders did not have to show that the offenders were entitled to such relief by clear and convincing evidence because (1) § [*2950.11\(F\)\(2\)*](#) imposed no such burden, and (2) [*R.C. 2950.11\(H\)\(1\)*](#), pursuant to which an offender seeking a suspension of community notification had to show, by clear and convincing evidence, that he or she was unlikely to commit a sexually oriented offense in the future, did not apply, as a hearing to suspend community notification, pursuant to § [*2950.11\(H\)\(1\)*](#), only arose after a sex offender had been registering for 20 years. [*Gildersleeve v. State*, 2009-Ohio-2031, 2009 Ohio App. LEXIS 1727 \(Ohio Ct. App., Cuyahoga County 2009\)](#), rev'd, in part, [*2010-Ohio-3753*, 126 Ohio St. 3d 322, 933 N.E.2d 801, 2010 Ohio LEXIS 1931 \(Ohio 2010\)](#).

It was error for a trial court to summarily deny sex offenders relief from community notification, under [*R.C. 2950.11\(F\)\(2\)*](#), because those offenders who were not subject to community notification under prior law were

exempt from community notification under § [2950.11\(F\)\(2\)](#), and it was unnecessary for the trial court to conduct evidentiary hearings or to consider the factors in § [2950.11\(F\)\(2\)](#) before making such a determination. [Gildersleeve v. State, 2009-Ohio-2031, 2009 Ohio App. LEXIS 1727 \(Ohio Ct. App., Cuyahoga County 2009\)](#), rev'd, in part, [2010-Ohio-3753, 126 Ohio St. 3d 322, 933 N.E.2d 801, 2010 Ohio LEXIS 1931 \(Ohio 2010\)](#).

Right to counsel

Inmate had no right to appointed counsel in his action contesting his classification as a Tier III offender under the Sexual Offender Registration and Notification Act, R.C. Chapter 2950, because there was no statutory right to counsel under the Act, and the inmate had not been deprived of a substantial liberty by being classified as a Tier III sex offender; because the inmate had no settled expectation regarding his registration obligations, he had not been deprived of any liberty interest, and while [R.C. 2950.11\(F\)\(2\)](#) allowed the trial court to hold a hearing on the notification provisions, notably absent was a provision providing for a statutory right to counsel at the hearing. [State v. Dehler, 2009-Ohio-5059, 2009 Ohio App. LEXIS 4320 \(Ohio Ct. App., Trumbull County 2009\)](#), rev'd, [2011-Ohio-5347, 130 Ohio St. 3d 259, 957 N.E.2d 292, 2011 Ohio LEXIS 2643 \(Ohio 2011\)](#).

Right to privacy

Revised Code Chapter 2950. does not violate a sex offender's right to privacy: [State v. Williams, 2000-Ohio-428, 88 Ohio St. 3d 513, 728 N.E.2d 342, 2000 Ohio LEXIS 813 \(Ohio\)](#), cert. denied, 531 U.S. 902, 121 S. Ct. 241, 148 L. Ed. 2d 173, 2000 U.S. LEXIS 6290 (U.S. 2000).

Standing

State prisoner convicted of a sexually oriented offense committed before enactment of [R.C. 2950.11](#) and facing a sexual predator adjudication hearing at an undetermined time in the future lacked standing to challenge the statute: [Milller v. Taft, 151 F. Supp. 2d 922, 2001 U.S. Dist. LEXIS 7555 \(N.D. Ohio 2001\)](#).

Suspension of requirements

In a case where defendant was classified as a Tier III sex offender after a kidnapping conviction, he was unable to raise the issue of whether a trial court erred in failing to suspend the community notification provision, pursuant to [R.C. 2950.11](#), since he did not request a hearing. [State v. Wood, 2010-Ohio-2759, 2010 Ohio App. LEXIS 2281 \(Ohio Ct. App., Stark County 2010\)](#).

Proper forum for a petition seeking suspension of community notification under [R.C. 2950.11\(H\)](#) is distinct from the proper forum for a petition contesting reclassification or a petition seeking removal of community notification requirements under [R.C. 2950.11\(F\)\(2\)](#). Due to this distinction, the holding in [Roy v. State, 2009 Ohio 580](#), does not apply to cases in which a petitioner files for relief under [R.C. 2950.11\(H\)](#). [Acheson v. State, 2010-Ohio-1946, 2010 Ohio App. LEXIS 1613 \(Ohio Ct. App., Warren County 2010\)](#).

Sex offender who is reclassified under the Adam Walsh Act, S.B. 10, Gen. Assem. (Ohio 2007), and automatically becomes subject to community notification requirements as a result of his reclassification may seek removal of that sanction in accordance with the procedures outlined in [R.C. 2950.11\(F\)\(2\)](#); moreover, the court conducting the reclassification hearing, which is the court in the offender's county of residence or temporary domicile, is the proper forum for an [R.C. 2950.11\(F\)\(2\)](#) motion seeking removal of community notification requirements.

Therefore, civil plain error was shown when a magistrate found that there was no jurisdiction to hear a convicted sex offender's challenge to community notification after his reclassification under the Act. [*Acheson v. State*, 2010-Ohio-1946, 2010 Ohio App. LEXIS 1613 \(Ohio Ct. App., Warren County 2010\)](#).

Pursuant to [*R.C. 2950.11\(F\)\(2\)*](#), the trial court had authority to suspend the community notification requirement, regardless of whether the offender had been previously classified under the prior law: [*State v. McConville*, 2009-Ohio-1713, 182 Ohio App. 3d 99, 911 N.E.2d 944, 2009 Ohio App. LEXIS 1451 \(Ohio Ct. App., Lorain County 2009\)](#), *aff'd*, [*2010-Ohio-958, 124 Ohio St. 3d 556, 925 N.E.2d 133, 2010 Ohio LEXIS 713 \(Ohio 2010\)*](#).

Competent, credible evidence supported a trial court's decision to relieve defendant of a community notification requirement, under [*R.C. 2950.11\(F\)\(2\)*](#), after defendant pled guilty to rape and gross sexual imposition, because (1) defendant was 19 when defendant committed the rape, (2) the victim, defendant's fiancée at the time, was 19, (3) defendant's only prior offense was a nonsexual misdemeanor, (4) the rape was not against multiple victims, (5) defendant did not impair the victim with drugs or alcohol, (6) the rape was not part of a pattern of abuse, (7) the rape did not involve cruelty or threats, and (8) defendant said defendant had a mood disorder that was controlled by medication, so defendant would not have been classified as a habitual sex offender or sexual predator under prior law. [*State v. McConville*, 2009-Ohio-1713, 182 Ohio App. 3d 99, 911 N.E.2d 944, 2009 Ohio App. LEXIS 1451 \(Ohio Ct. App., Lorain County 2009\)](#), *aff'd*, [*2010-Ohio-958, 124 Ohio St. 3d 556, 925 N.E.2d 133, 2010 Ohio LEXIS 713 \(Ohio 2010\)*](#).

After defendant pled guilty to rape and gross sexual imposition and was classified as a tier III sex offender, a trial court properly suspended any community notification requirement, *sua sponte*, because, *inter alia*, the court had discretion to suspend this requirement, as [*R.C. 2950.11\(F\)\(2\)*](#) provided that a court could suspend the requirement if the court found, after holding a hearing, that defendant would not have been subjected to community notification under the law immediately preceding the current community notification law, and the court could conduct this hearing in conjunction with defendant's sentencing and could commence the hearing *sua sponte*. [*State v. McConville*, 2009-Ohio-1713, 182 Ohio App. 3d 99, 911 N.E.2d 944, 2009 Ohio App. LEXIS 1451 \(Ohio Ct. App., Lorain County 2009\)](#), *aff'd*, [*2010-Ohio-958, 124 Ohio St. 3d 556, 925 N.E.2d 133, 2010 Ohio LEXIS 713 \(Ohio 2010\)*](#).

Notes to Unpublished Decisions

Applicability

Applicability

Unpublished decision: Where plaintiff's claims against city, city agencies, and individuals arising out of death of victim were based on release of a prisoner from confinement without rehabilitative treatment, policy of not checking on sex offenders, failure to create and enforce adequate policies for enforcing Ohio's sex offender registration statute (as amended by Adam Walsh Act), and failure to ensure that prisoner registered with the sheriff's office, her claims were properly dismissed, as her allegations fell within the definition of a governmental function, no exceptions to immunity applied, and she failed to allege that acts of individually named defendants were outside the scope of their employment and official responsibilities. [*Carmichael v. City of Cleveland*, 571 Fed. Appx. 426, 2014 FED App. 0491N, 2014 U.S. App. LEXIS 13004 \(6th Cir. Ohio 2014\)](#).

Opinion Notes

Attorney General Opinions

A county sheriff that provides sex offender registration information to the general public on the internet through a web site must provide a written notice containing the information set forth in [R.C. 2950.11\(B\)](#) to all the persons listed in [R.C. 2950.11\(A\)](#); OAG No. 2002-040 (2003).

Except for the persons listed in [R.C. 2950.11\(A\)\(1\)](#) and [OAC 109:5-2-03\(A\)\(1\)\(c\)](#), a county sheriff may use e-mail to electronically transmit the written notice required by [R.C. 2950.11\(A\)](#). The persons listed in [R.C. 2950.11\(A\)\(1\)](#) and rule [OAC 109:5-2-03\(A\)\(1\)\(c\)](#) must receive the written notice required by [R.C. 2950.11\(A\)](#) by regular mail or by personal delivery to their residences; OAG No. 2002-040 (2003).

Research References & Practice Aids

Cross-References to Related Sections

Duties of attorney general, RC § [2950.13](#).

Immunity for certain persons from liability in civil action, RC § [2950.12](#).

Ohio Administrative Code

Community notification. [OAC 109:5-2-03](#).

Lists to be compiled, maintained, and updated. [OAC 109:5-2-06](#).

School and child care facility's use of sex offender information. [OAC 109:5-2-04](#).

Hierarchy Notes:

[ORC Ann. Title 29, Ch. 2950](#)

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