

# **Senate Bill 10**

## **Community Notification Relief Motion**

### ***Pro Se Packet***

This packet contains forms you can file to request relief from the community notification provisions of Senate Bill 10. You should only use these forms if you were previously classified as a Sexually Oriented Offender or a Habitual Sex Offender without a community notification requirement, and have now been reclassified as a Tier III Offender with a community notification requirement. YOU ARE STRONGLY ENCOURAGED TO CONTACT AND RETAIN A LAWYER IN RELATION TO THIS MOTION. Without counsel, you may not be able to obtain a speedy hearing on your motion. For this reason, these forms should be used as a last resort only.

**PLEASE NOTE: The statute does not specify what county the motion should be filed in. We strongly encourage you to file it in the county where you were originally convicted and in your original criminal case. This form presumes that the motion will be filed in your county of conviction and in your original criminal case.**

**Please remember that this is NOT the same as the Pro Se Reclassification Challenge Petition, which must be filed in your county of residence!**

The forms are: (1) Motion for Relief from Community Notification Provisions of R.C. 2950.11; (2) Affidavit of Indigency; and (3) Motion for Appointment of Counsel.

## **STEP ONE: FILL OUT THE FORMS**

You should file these forms as soon as possible after you receive the reclassification letter from the Ohio Attorney General's office. The forms should be self-explanatory. Here are some tips for filling them out:

### **THE MOTION:**

- Again, the statute does not specify what county the motion should be filed in. We strongly encourage you to file it in your county of conviction and in your original criminal case, and this motion presumes that it has been filed in your county of conviction and in your original criminal case. Fill in the form and *attach a copy of the notice you received from the attorney general to your petition.*

### **AFFIDAVIT OF INDIGENCY**

- This is the only document that must be notarized. *Do not sign the affidavit until you see the notary; it must be signed in the notary's presence.* You may be able to find a notary at your local bank, post office, or bureau of motor vehicles (BMV).

### **MOTION FOR APPOINTMENT OF COUNSEL & ENTRY**

- The court may appoint counsel to represent you. You should file this motion and entry with your petition so that you will be appointed counsel if the court is willing to do so.

## **STEP TWO: MAKE COPIES**

When the forms are completed, make three (3) copies of each form.

## **STEP THREE: MAIL THE FORMS**

Mail the forms as follows:

### **TO THE CLERK OF COURTS:**

- Mail the original of all three forms, plus two (2) copy of all three forms.
- Mark the one (1) copy of each form “time-stamp and return.” **Do not** mark the original forms.
- **Do not** mail anything directly to the judge.

### **TO THE PROSECUTOR:**

- Mail one (1) copy of each form.

IN THE COURT OF COMMON PLEAS

\_\_\_\_\_ COUNTY, OHIO

STATE OF OHIO, :  
 :  
 Plaintiff, :  
 :  
 v. : Case No. \_\_\_\_\_  
 :  
 \_\_\_\_\_, :  
 :  
 Defendant. : HEARING REQUESTED

**MOTION FOR IMMEDIATE RELIEF FROM COMMUNITY NOTIFICATION PURSUANT TO R.C. 2950.11(F)(2)**

Now comes Defendant \_\_\_\_\_, *pro se*, and pursuant to R.C. 2950.11(F) and for the reasons set forth in the attached memorandum, hereby moves this Court to make a finding and issue an order that Defendant is not subject to the community notification provisions of R.C. 2950.11.

Respectfully submitted,

\_\_\_\_\_  
DEFENDANT-PETITIONER, *pro se*

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
CITY, STATE & ZIP CODE

## **MEMORANDUM OF LAW**

The new version of R.C. 2950.11(F)(2) states that the community notification provisions of R.C. 2950.11 do not apply “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 the effective date of this amendment.”

Prior to January 1, 2008, the Defendant was classified by this Court under former R.C. Chapter 2950. At that time, this Court determined that the Defendant was not subject to community notification. However, the Attorney General’s Office has voided this Court’s order, and determined that under the new version of R.C. Chapter 2950 the Defendant must be subject to community notification.

Upon information and belief, the Defendant states that community notification pursuant to R.C. 2950.11 will commence shortly after January 1, 2008, and that any community notification will cause irreparable harm to the Defendant.

The Attorney General’s action abrogates this Court’s final orders adjudicating and classifying the Defendant under former R.C. Chapter 2950, and violates the separation of powers principle inherent in Ohio’s constitutional framework.

The Attorney General’s action impairs vested rights and imposes new obligations and additional substantial burdens on the Defendant. It therefore violates Section 28, Article II of the Ohio Constitution, which prohibits retroactive laws.

Because community notification constitutes an additional punishment placed upon the Defendant, it violates the Ex Post Facto Clause of the United States

Constitution. This additional punishment also violates the Double Jeopardy Clauses of the Ohio and United States Constitutions.

The Defendant may have entered a plea in exchange for favorable community notification provisions, and a plea agreement is a contract that binds the State. If the Defendant entered a plea, community notification constitutes an impairment of an obligation of contract prohibited by Section 28, Article II of the Ohio Constitution and Article I, Section 10, Clause 1 of the United States Constitution.

The following special circumstances about the Defendant and/or the Defendant's case further support the Defendant's claims:\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

WHEREFORE, Defendant respectfully requests the Court to grant this motion and find that Defendant is not subject to the community notification provisions of R.C. 2950.11. The Defendant further requests that a copy of the Court's entry be served on the Sheriff of this County, the Sheriff of the Defendant's county of residence if the Defendant resides in another county, the Bureau of Criminal Identification and Investigation, and the Attorney General of Ohio.

Respectfully submitted,

\_\_\_\_\_  
DEFENDANT, *pro se*

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing MOTION FOR RELIEF FROM  
COMMUNITY NOTIFICATION was forwarded by regular U.S. mail to the office of the \_\_\_\_  
\_\_\_\_ County Prosecutor, [address] \_\_\_\_\_

\_\_\_\_\_ on this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_  
DEFENDANT, *pro se*

IN THE COURT OF COMMON PLEAS  
\_\_\_\_\_ COUNTY, OHIO

STATE OF OHIO, :  
 :  
 Plaintiff, :  
 vs. : Case No. \_\_\_\_\_  
 :  
 \_\_\_\_\_, :  
 Defendant. :

**AFFIDAVIT OF INDIGENCY**

I, \_\_\_\_\_, do hereby solemnly swear that I have presently this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, no means of financial support and no assets of any value and, therefore, cannot afford to pay for any legal services, fees, or costs in the above-styled case.

\_\_\_\_\_  
DEFENDANT, *pro se*

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
CITY, STATE & ZIP CODE

Sworn to and subscribed in my presence this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

IN THE COURT OF COMMON PLEAS  
\_\_\_\_\_ COUNTY, OHIO

STATE OF OHIO, :  
 :  
 Plaintiff, :  
 :  
 v. : Case No. \_\_\_\_\_  
 :  
 \_\_\_\_\_, : EXPEDITED REVIEW REQUESTED  
 :  
 Defendant. :

**MOTION FOR IMMEDIATE APPOINTMENT OF COUNSEL**

Defendant, *pro se*, respectfully moves this Court for an immediate order appointing counsel to represent Defendant on Defendant's Motion for Relief from Community Notification. A memorandum in support is attached.

Respectfully submitted,

\_\_\_\_\_  
DEFENDANT, *pro se*

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
CITY, STATE & ZIP CODE

**MEMORANDUM IN SUPPORT**

Defendant lacks the skill or knowledge to adequately pursue and protect Defendant's rights without the assistance of counsel. Counsel is essential to ensure that Defendant's rights are fully protected and all issues reviewed. As attested by the Affidavit of Indigency filed with the petition, Defendant is without funds to hire an attorney. Because the challenged community notification has a punitive impact, the Defendant is entitled to counsel at state expense. Because the Defendant is in imminent danger of community notification and cannot timely challenge that notification without the immediate appointment of counsel, the Court is respectfully requested to expedite its consideration of this motion and immediately appoint counsel for the Defendant.

The following special circumstances about Defendant and/or Defendant's case further support this request: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

WHEREFORE, Defendant respectfully requests that counsel be appointed.

Respectfully submitted,

\_\_\_\_\_  
DEFENDANT, *pro se*

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing MOTION FOR IMMEDIATE APPOINTMENT OF COUNSEL was forwarded by regular U.S. mail to the office of the \_\_\_\_\_ County Prosecutor, [address] \_\_\_\_\_

\_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_  
DEFENDANT, *pro se*

IN THE COURT OF COMMON PLEAS  
\_\_\_\_\_ COUNTY, OHIO

STATE OF OHIO, :  
 :  
 Plaintiff, :  
 v. : Case No. \_\_\_\_\_  
 :  
 \_\_\_\_\_, :  
 Defendant. :

**ENTRY**

For good cause shown, the Court hereby finds the Defendant to be indigent, and further finds that the Defendant is entitled to appointed counsel. The Court appoints attorney \_\_\_\_\_ to represent Defendant relating to the filed Motion for Immediate Relief from Community Notification. Counsel is directed to obtain from the Defendant an OPD-206R financial disclosure form and file it with the Court.

IT IS SO ORDERED.

\_\_\_\_\_  
Judge