

JSORN AFTER 1-1-08

Juveniles adjudicated delinquent of a qualifying offense will **only** be subject to SORN registration duties if:

- The juvenile was at least 14 years of age at the time of the offense, and
- The offense was committed on or after January 1, 2002.

Whether or not a juvenile is automatically subject to registration duties depends on the age of the juvenile and whether the juvenile has previously committed a sexually oriented or child-victim oriented offense. There will be a separate category of juvenile registrants known as Public Registry Qualified Juvenile Offender Registrants (PRQJORS), under 2152.86, which is automatic classification based upon offense, discussed later.

INITIAL CLASSIFICATION (NON-PROJOR)

Discretionary Classification: Youthful First Offenders

The juvenile court judge maintains the discretion to impose registration duties on a juvenile adjudicated delinquent of a qualifying offense if:

- ◆ The juvenile was 14 or 15 years of age at the time of the offense, and
- ◆ The juvenile has never been adjudicated delinquent for a sexually oriented or child-victim oriented offense, and
- ◆ The court is not required to classify as a JOR or a JOR and a PRQJOR.

A hearing to determine whether or not to classify a juvenile will be held at the time of disposition, or upon the juvenile's release from a secure facility. Factors for the court to consider in making the determination are listed in 2152.83 (D) and include:

- ◆ The nature of the offense;
- ◆ Whether the child has shown any remorse for the offense;
- ◆ The public interest and safety;
- ◆ The results of any treatment and any professional assessments submitted to the court.
- ◆ Factors in 2950.11 (K) {new}; "offender" shall be construed as "delinquent child" for purposes of this section [these are the factors the court considers for removing the community notification requirements]
- ◆ Factors in 2929.12 (B) and (C)- felony sentencing factors
- ◆ The results of any treatment provided to the child and of any follow-up professional assessment of the child.

At that hearing, the juvenile court has two options: 1) decline to classify as a JOR; or 2) issue an order that classifies juvenile as a JOR.

If the juvenile court chooses to classify juvenile as a JOR, then the court must then conduct a hearing under R.C. 2152.831 {new} to determine which Tier classification will be applied to the juvenile. [outlined later.]

If classified as a JOR, the court must provide written notice of the juvenile's registration duties to the juvenile and the juvenile's parents, guardian or custodian. Parents, guardian or custodian may be prosecuted for the offense of contributing to the delinquency of a minor if the juvenile fails to comply with SORN

Automatic Classification: Older First Offenders and Repeat Offenders

A juvenile adjudicated delinquent of a qualifying offense will automatically be classified as a registrant if all of the following apply:

- ◆ The juvenile was 16 or 17 years of age at the time of the offense;
- ◆ The offense was committed on or after January 1, 2002;
- ◆ Court not required to classify as a PRQJOR. [2152.82(A)(1)(c)]

OR

- ◆ The juvenile was 14, 15, 16, or 17 years of age at the time of the offense;
- ◆ The offense was committed on or after January 1, 2002
- ◆ The juvenile was previously adjudicated delinquent for committing any sexually oriented offense or child victim oriented offense, regardless of when the prior offense was committed and regardless of the child's age at the time of committing the offense.
- ◆ Court not required to classify as a PRQJOR:

An order classifying juvenile as JOR under these circumstances shall be issued at the time of disposition if the juvenile is a repeat offender [2152.82 (A)]. If the juvenile is a first time offender, age 16 or 17, the JOR classification order can be done at disposition or upon release from DYS. [2152.82(B)]. The Court shall conduct a hearing under 2152.831 to determine what Tier classification will be imposed.

If classified as a JOR, the court must provide written notice of the juvenile's registration duties to the juvenile and the juvenile's parents, guardian or custodian. Parents, guardian or custodian may be prosecuted for the offense of contributing to the delinquency of a minor if the juvenile fails to comply with SORN

Tier Classification Hearing under R.C. 2152.831 {new}

If the juvenile is classified as a JOR, but not a PRQJOR, the Court shall conduct a hearing to determine which Tier classification will be imposed. Tier classification is

based solely on the offense for which the juvenile is adjudicated. (See Tier chart). The definitions for “tier I sex offender/child victim offender,” “tier II sex offender/child victim offender,” and “tier III sex offender/child victim offender” are located in the new section of 2950.01. The Court does not have discretion on which tier classification to impose. If classified Tier III JOR, non PRQJOR, the Court may choose impose victim and community notification. [2950.10 (B)(1)(c) and 2950.11 (F)(1)(c)]

TIER REGISTRATION PERIODS

Under SB 10, the registration periods for juvenile offender registrants are slightly different than for adult offenders.

	<u>Juveniles</u>	<u>Adults</u>
Tier I:	10 years	15 years
Tier II:	20 years	25 years
Tier III:	Life	Life

RE-CLASSIFICATION

Mandatory Hearing (Non-PROJORS)

After the initial classification hearing, the juvenile court judge must hold a reclassification hearing at the end of disposition. At the hearing the judge must:

- ◆ review the effectiveness of disposition and any treatment provided
- ◆ determine the risk of re-offending
- ◆ determine whether to continue, modify, or terminate the juvenile’s classification.
- ◆ Consider factors in RC 2152.83 (D) and 2152.831 (C)

At the conclusion of that hearing, the Court must do one of the following:

- 1) continue the original classification order
- 2) if a discretionary order under RC 2152. 83 (B), terminate classification and duty to register
- 3) if an order under RC 2152.82 or 2152.83 (A) or (B), enter an order that continues classification as a JOR, but modifies Tier classification to lower Tier level , if applicable **{cannot bump up}**.
 - In determining whether to modify the Tier classification, the Court shall consider all relevant factors, including but not limited to those listed in 2152.83 (D), see above. Note: the clear and convincing standard to move from predator to not a predator was repealed.

If the Court chooses to reclassify the juvenile, then the Court must issue new duties of registration instructions to the delinquent child and his/her parents, guardians or custodians. The Court also must provide a copy of the order to BCI&I, who in turn notifies the appropriate sheriffs.

If Court chooses to declassify the juvenile, then the Court must send a copy of the order to BCI&I, who in turn notifies the appropriate sheriffs.

Re-Classification Hearing on Petition (Non-PROJORs)

After the first re-classification hearing the juvenile may come back to court requesting further re-classification or de-classification. Petitions on rehearing may be filed at the following intervals:

- Not earlier than 3 years after the mandatory reclassification hearing after disposition;
- Not earlier than 3 years after the judge has entered an order ruling on the first petition;
- Thereafter, the juvenile may file a subsequent petition upon the expiration of 5 years after the judge has entered an order ruling on the second petition.

At each subsequent hearing the judge may consider all relevant factors, including the prior classification hearing history, in determining whether to deny or grant a petition. Juvenile offender registrants may be declassified or reclassified, in the same manner as described under the mandatory reclassification hearing, above.

If no change is made in classification, the juvenile must continue registration for the designated period. ***Registration duties are not affected by the juvenile turning age 18 or 21.***

PUBLIC REGISTRY-QUALIFIED JUVENILE OFFENDER REGISTRANTS

SB 10 creates new section, RC 2152.86, dealing with public registry qualified juvenile offender registrants (PRQJORs), which applies to a juvenile 14 or older at the time of committing the act and the juvenile is classified as a “serious youth offender” (“SYO”) and is adjudicated delinquent for committing, attempting to commit, conspiring to commit or complicity in committing any of the following acts:

- 1) Rape (2907.02)
- 2) Sexual Battery (2907.03)
- 3) Gross Sexual Imposition (2907.05 (B)- new)

- 4) Aggravated Murder with sexual motivation (2903.01)
- 5) Murder with sexual motivation (2903.02)
- 6) Kidnapping with sexual motivation (2905.01)

This is mandatory classification at the time of disposition [2152.86 (A) (1)], or, if released from DYS after 1-1-08 and has not yet been classified.[2152.86 (A)(2)] The PRQJOR is automatically classified as a Tier III offender with registration and notification requirements as adult Tier III offenders and is also required to be posted on the AG and Sheriff's websites. PRQJORs whose offenses were committed after January 1, 2008, are not eligible for reclassification or declassification under 2152.84 or 2152.85.

However, PRQJORs are eligible, after 25 years of a "clean record" to petition the Court for a termination of their registration duties. The PRQJOR would file a motion under 2950.15 (D) *{new}* and provide the Court with the following information with their petition:

- (1) A certified copy of the judgment entry and any other documentation of the sentence or disposition given for the offense or offenses for which the eligible offender was convicted, pleaded guilty, or was adjudicated a delinquent child;
- (2) Documentation of the date of discharge from supervision or release, whichever is applicable;
- (3) Evidence that the eligible offender has completed a sex offender or child-victim offender treatment program certified by the department of rehabilitation and correction or the department of youth services pursuant to section 2950.16 of the Revised Code;
- (4) Evidence that the eligible offender has not been convicted of, pleaded guilty to, or been adjudicated a delinquent child for committing any subsequent sexually oriented offense, child-victim oriented offense, or other criminal offense, except for a minor misdemeanor traffic offense;
- (5) Evidence that the eligible offender has paid any financial sanctions imposed upon the offender pursuant to section 2929.18 or 2929.28 of the Revised Code.

The motion and supporting documentation is then sent to the probation department to investigate the merits of the petition. Within 60 days of receiving the motion and petition, the probation department must submit a written report on its investigation and findings.

The motion is also served upon the prosecutor who handled the underlying adjudication. The prosecutor must notify the victim of the filing of the motion. The victim may submit a written statement to the Court pertaining to the eligible offender's conduct since classification. A hearing date shall be set within 180 days of the filing of the motion. At least 7 days prior to the hearing, the prosecutor may submit an objection to the motion and must serve the eligible offender or his counsel with said objection.

In determining whether to grant the motion, in addition to the motion and supporting documentation, the report from the probation department, any objection filed by the prosecutor and any statements filed by the victim, the Court shall consider the following [2950.15(G)]:

(1) Whether the eligible offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege has ever been suspended;

(2) Whether the eligible offender has maintained financial responsibility for a motor vehicle as required by section 4509.101 [4509.10.1] of the Revised Code;

(3) Whether the eligible offender has satisfied any child or spousal support obligations, if applicable;

(4) Whether the eligible offender has paid all local, state, and federal income taxes, and has timely filed all associated income tax returns, as required by local, state, or federal law;

(5) Whether there is evidence that the eligible offender has adequately addressed sex offending or child-victim offending behaviors;

(6) Whether the eligible offender has maintained a residence for a substantial period of time;

(7) Whether the eligible offender has maintained employment or, if the eligible offender has not been employed while under a duty to comply with sections 2950.04, 2950.041 [2950.04.1], 2950.05, and 2950.06 of the Revised Code, whether the eligible offender has satisfied the offender's financial obligations through other manners of support such as disability payments, a pension, spousal or child support, or scholarships or grants;

(8) Whether the eligible offender has adequately addressed any drug or alcohol abuse or addiction;

(9) Letters of reference;

(10) Documentation of the eligible offender's service to the community or to specific individuals in need.

The Court, without a hearing, can rule on the motion under two circumstances [2950.15(H)]:

1. the Court can deny the motion without a hearing, based upon the probation department's investigative report, the supporting documents submitted with the Motion, and considering the factors outlined above.

2. if the prosecutor fails to submit an objection, and the Court may grant the motion without a hearing, based upon the probation department's investigative report, the supporting documents submitted with the Motion, and considering the factors outlined above.

In all other cases, the Court shall hold a hearing on the merits of the Motion, at which the eligible offender has the burden to go forward and prove by a preponderance of the evidence that the motion should be granted.

If a motion is granted, the Court must send a copy of the order granting the Motion to BCI&I, who is to update all records and notify the appropriate sheriffs.

eSORN

Under current law, R.C. 2950.081 (B), sheriffs who operate their own independent sex offender website, are permitted to post the registration information on juvenile sex offenders who were adjudicated delinquent for Rape, or Murder, Aggravate Murder or Kidnapping committed with a sexual motivation.

SB 10 modifies this provision and limits the posting on the sheriffs' site to PRQJORS, who will also be posted on the state's public website administered by BCI&I (eSORN).