

IN THE  
SUPREME COURT OF OHIO

**IN RE R.B.,**

A Minor Child, Appellant.

Case No. 2019-1325

Appellate Case No.: C-170622, C-170623

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ON APPEAL FROM THE HAMILTON COUNTY COURT OF APPEALS,  
FIRST APPELLATE DISTRICT COURT OF APPEALS

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**MERIT BRIEF OF APPELLEE AND CROSS-APPELLANT R.B.**

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## TABLE OF CONTENTS

<u>TABLE OF AUTHORITIES</u> .....	iv
<u>STATEMENT OF CASE</u> .....	1
<u>STATEMENT OF FACTS</u> .....	1
<u>ARGUMENT</u> .....	7
<u>Appellee’s Response to Appellant’s Proposition of Law:</u> .....	7
A juvenile court is only vested with jurisdiction to issue juvenile sex offender classifications where it has been granted authority to do so by statute. Where a juvenile court imposes a classification under R.C. 2152.83, that classification remains valid up to the child’s completion of the disposition. For classification to continue, the court must hold a hearing upon the completion of a child’s disposition as required by R.C. 2152.84, and enter the order prior to the child’s 21st birthday and at the time dictated by R.C. 2152.84.	
I. State’s Proposition of Law has been waived. ....	7
II. Appellant’s Proposition of Law must be rejected, as the juvenile court’s jurisdiction is limited by age and the time frame found in R.C. 2152.84. ....	8
A. Traditional Limitations on Juvenile Court Jurisdiction Still Apply to Classifications. ....	10
1. Juvenile Court Subject-Matter Jurisdiction terminates at age 21. ....	10
2. Juvenile courts only have authority to classify a “child.” ....	12
3. Juvenile court’s jurisdiction terminates once the disposition is complete. ....	13
B. Juvenile court’s jurisdiction to hold sex offender hearings and issue classification orders is tied to compliance with the statutory scheme. ....	14
1. R.C. 2152.83 and R.C. 2152.84 must be read together. ....	14
2. The statutory scheme in R.C. 2152.83-.85 provide juvenile courts with jurisdiction and authority to issue juvenile sex offender classification orders. ....	16

3. The juvenile court only has jurisdiction to conduct a R.C. 2152.84 hearing “upon the completion of disposition.” .....	18
a. The plain language of R.C. 2152.84 dictates the hearing must occur at the completion of disposition. ....	18
b. Although the plain language is unambiguous, R.B.’s interpretation is logical and fits within the purpose of juvenile court, and comports with due process. ....	20
4. State’s claims that R.C. 2152.84 is non-jurisdictional lack merit. ....	22
a. Timing requirement in R.C. 2152.84 is not directory; it is mandatory and therefore jurisdictional. ....	22
b. R.C. 2152.83(E) does not provide for jurisdiction but rather continues <i>valid classification orders</i> . ....	23
C. The juvenile court lacked jurisdiction to conduct a completion of disposition hearing under R.C. 2152.84 and issue a classification order requiring R.B. to register. ....	25
1. The juvenile court lacked jurisdiction as R.B. was 21 and no longer a child at the time it issued the classification order on October 30, 2017. ....	25
2. The juvenile court lacked jurisdiction to classify R.B. on October 30, 2017, as the court’s jurisdiction over the case had already been terminated. ....	25
3. Juvenile court lacked jurisdiction to issue classification order for R.B. on October 30, 2017 as it failed to follow the timing requirements of R.C. 2152.84. ....	26
a. R.B.’s disposition terminated with probation and the R.C. 2152.84 hearing should have been held on July 29, 2013. ....	26
b. Contrary to the juvenile court’s findings, the suspended commitment and monitored time did not extend the court’s jurisdiction. ....	28
c. May 8, 2017 hearing was untimely. ....	29
<b><u>Argument in Support of Cross-Appellant’s Proposition Of Law</u></b> .....	31
<b>Introduction</b> .....	31

**Cross-Appellant Proposition of Law 3: ..... 32**

**To comply with fundamental fairness and a youth’s due process rights in conducting a completion of disposition hearing, the juvenile court must conduct the hearing at the time the child completes his treatment. See *In re D.S.*, 146 Ohio St.3d 182, 2016-Ohio-1027; Fourteenth Amendment to the U.S. Constitution; Section 16, Article I of Ohio Constitution.**

- 1. Juvenile Court failed to provide R.B. with the process due to him under R.C. 2152.84 as the juvenile court did not comply with the statute. .... 33**
- 2. Traditional Standard for Procedural Due Process reveals R.B.’s rights were violated. .... 35**
- 3. Fundamental fairness requires a timely R.C. 2152.84 hearing..... 41**

**CONCLUSION..... 49**

**CERTIFICATE OF SERVICE ..... 50**

**APPENDIX**

<i>In re R.B.</i> , Notice of Cross Appeal Case No. 2019-1325 (October 10, 2019).....	A-1
<i>In re R.B.</i> , First District C170622, C170623 (August 16, 2019).....	A-4
<i>In re R.B.</i> , Hamilton Co. J.C. No. 11-9083,11-9085 X, Judicial Entry (Oct. 30, 2017)...	A-13
<i>In re R.B.</i> , Hamilton Co. J.C. No. 11-9083 X, Decision of Magistrate (July 14, 2017).....	A-17
<i>In re R.B.</i> , Hamilton Co. J.C. No. 11-9085 X, Decision of Magistrate (July 13, 2017).....	A-18
<i>In re R.B.</i> , Hamilton Co. J.C. No. 11-9083 X, Judicial Entry (March 6, 2017).....	A-19
<i>In re R.B.</i> , Hamilton Co. J.C. No. 11-9085 X, Judicial Entry (March 6, 2017).....	A-22
<i>In re R.B.</i> , Hamilton Co. J.C. No. 11-9085 X, Order of Mag. (January 30, 2017).....	A-25
<i>In re R.B.</i> , Hamilton Co. J.C. No. 11-9083 X, Order of Mag. (January 30, 2017).....	A-26
Fifth Amendment to the U.S. Constitution.....	A-27
Fourteenth Amendment to the U.S. Constitution.....	A-28
Section 16, Article I, Ohio Constitution.....	A-32



Section 1, Article IV, Ohio Constitution.....	A-33
Juv.R. 2.....	A-34
Juv.R. 27.....	A-38
Juv.R. 34.....	A-42
Juv.R. 35.....	A-48
Juv.R. 40.....	A-49
R.C. 1.42.....	A-55
R.C.2151.011.....	A-57
R.C. 2151.07.....	A-67
R.C. 2151.08.....	A-68
R.C. 2151.23.....	A-70
R.C. 2151.352.....	A-75
R.C. 2151.356.....	A-76
R.C. 2151.358.....	A-80
R.C. 2152.01.....	A-85
R.C. 2152.02.....	A-86
R.C. 2152.10.....	A-91
R.C. 2152.12.....	A-93
R.C. 2152.13.....	A-99
R.C. 2152.14.....	A-102
R.C. 2152.16.....	A-105
R.C. 2152.19.....	A-107
R.C. 2152.22.....	A-113

R.C. 2152.82.....	A-118
R.C. 2152.83.....	A-121
R.C. 2152.84.....	A-125
R.C. 2152.85.....	A-128
R.C. 2152.851.....	A-131
R.C. 2152.86.....	A-132
R.C. 2950.01.....	A-136
R.C. 2950.02.....	A-147
R.C. 2950.07.....	A-149
R.C. 2950.99.....	A-154

## Table of Authorities

### Cases

<i>Adler v. Whitbeck</i> , 44 Ohio St. 539, 569, 9 N.E. 672 (1887).....	32
<i>Board of Regents v. Roth</i> , 408 U.S. 564, 577-578, 92 S.Ct. 2701, 33 L.Ed.2d 548 (1972) .....	36
<i>Cline v. Ohio Bur. of Motor Vehicles</i> , 61 Ohio St.3d 93, 573 N.E.2d 77 (1991) .....	19
<i>Collins v. Wolfson</i> , 498 F.2d 1100, 1103 (5th Cir.1974) .....	36
<i>Conn. Bd. of Pardons v. Dumschat</i> , 452 U.S. 458, 101 S.Ct. 2460, 69 L.Ed.2d 158 (1981) .....	34
<i>Dorrian v. Scioto Conser. Dist.</i> , 27 Ohio St.2d 102, 56 O.O.2d 58, 271 N.E.2d 834, (1971) .....	22
<i>E. Ohio Gas Co. v. Pub. Util. Comm.</i> , 39 Ohio St.3d 295, 530 N.E.2d 875 (1988).....	15
<i>Estate of Heintzelman v. Air Experts, Inc.</i> , 126 Ohio St.3d 138, 2010-Ohio-3264, 931 N.E.2d 548 .....	18
<i>Goldberg v. Kelly</i> , 397 U.S. 254, 90 S.Ct. 1011, 25 L.Ed.2d 287 (1970) .....	40
<i>Goss v. Lopez</i> , 419 U.S. 565, 95 S.Ct. 729, 42 L.Ed.2d 725 (1975).....	32,33

<i>In re A.G.</i> , 148 Ohio St.3d 118, 2016-Ohio-3306, 69 N.E.3d 646 .....	42
<i>In re A.W.</i> , Slip Opinion No. 2020-Ohio-1457 .....	10, 11, 12, 27
<i>In re Adoption of H.N.R.</i> , 145 Ohio St.3d 144, 2015-Ohio-5476, 47 N.E.3d 803.....	37
<i>In re Agler</i> , 19 Ohio St.2d 70, 249 N.E.2d 808 (1969).....	9, 42
<i>In re C.P.</i> , 131 Ohio St.3d 513, 2012-Ohio-1446, 967 N.E.2d 729 .....	<i>passim</i>
<i>In re C.S.</i> , 115 Ohio St.3d 267, 2007-Ohio-4919, 874 N.E.2d 1177 .....	41, 42
<i>In re Cross</i> , 96 Ohio St.3d 328, 2002-Ohio-4183, 774 N.E.2d 258 .....	<i>passim</i>
<i>In re D.H.</i> , 120 Ohio St.3d 540, 2009-Ohio-9, 901 N.E.2d 209.....	41, 43
<i>In re D.J.S.</i> , 130 Ohio St.3d 257, 2011-Ohio-5342, 957 N.E.2d 291 .....	48
<i>In re D.S.</i> , 111 Ohio St.3d 361, 2006-Ohio-5851, 856 N.E.2d 921.....	42
<i>In re D.S.</i> , 146 Ohio St.3d 182, 2016-Ohio-1027, 54 N.E.3d 1184.....	<i>passim</i>
<i>In re Davis</i> , 84 Ohio St.3d 520, 705 N.E.2d 381 (1999). .....	22, 23
<i>In re G.M.</i> , 188 Ohio App.,3d 318, 2010-Ohio-2295, 935 N.E.2d 459.....	11,12
<i>In re Gault</i> , 387 U.S. 1, 87 S.Ct. 1428, 18 L.Ed.2d 527 (1967) .....	41
<i>In re I.A.</i> , 140 Ohio St.3d 203, 16 N.E.3d 653, 2014-Ohio-3155.....	8, 16, 17, 19, 46
<i>In re J.B.</i> , 5th Dist. Morrow No. 15 CA 0002, 2016-Ohio-98.....	11
<i>In re J.F.</i> , 121 Ohio St.3d 76, 2008-Ohio-318, 902 N.E.2d 19 .....	13, 20, 25, 27, 29
<i>In re J.V.</i> , 134 Ohio St.3d 1, 2012-Ohio-4961, 979 N.E.2d 1203, .....	10, 11, 12
<i>In re L.N.</i> , 2018-Ohio-3982, 121 N.E. 795 (6th Dist.).....	17
<i>In re McAllister</i> , 5th Dist. Stark No. 2006CA00073, 2006-Ohio-5554.....	17
<i>In re Mudrick</i> , 5th Dist. Stark No. 2007-CA-00038, 2007-Ohio-6800 .....	17
<i>In re R.B.</i> , 1st Dist. Hamilton No. C-170622, 170623, 2019-Ohio-3298 .....	6, 26, 28
<i>In re T.W.</i> , 11th Dist. Ashtabula No. 2015-A-0013, 2015-Ohio-5213 .....	17

<i>Johnson v. Sloan</i> , 154 Ohio St.3d 476, 2018-Ohio-2120, 116 N.E.3d 91 .....	16
<i>Kent v. United States</i> , 383 U.S. 541, 86 S.Ct. 1045, 16 L.E.2d 84 (1966) .....	42
<i>Mathews v. Eldridge</i> , 424 U.S. 319, 96 S.Ct. 893, 903, 47 L.Ed.2d 18 (1976).....	36, 40
<i>Miller v. Alabama</i> , 567 U.S. 467, 132 S.Ct. 2455, 183 L.Ed.2d 407 (2012).....	37, 38
<i>Mominee v. Scherbarth</i> , 28 Ohio St.3d 270, 274, 503 N.E.2d 717 (1986).....	35
<i>Naylor v. Cardinal Local Sch. Dist. Bd. of Educ.</i> , 69 Ohio St.3d 162, 170, 630 N.E.2d 725, 1994-Ohio-22 .....	15
<i>Nebbia v. New York</i> , 291 U.S. 502, 54 S.Ct. 505, 78 L.Ed. 940 (1934).....	35
<i>State ex rel. Jean-Baptiste v. Kirsch</i> , 134 Ohio St.3d 421, 983 N.E.2d 302, 2012-Ohio-5697 .....	<i>passim</i>
<i>State ex rel. Jones v. Farrar</i> , 146 Ohio St. 467, 544, 66 N.E.2d 531 (1946) .....	22
<i>State ex rel. Smith v. Barnell</i> , 109 Ohio St. 246, 255, 142 N.E. 611 (1924) .....	23
<i>State ex rel. Solomon v. Police &amp; Firearm’s Disability &amp; Pen. Fund Bd. of Trustees</i> , 72 Ohio St.3d 62, 65, 647 N.E.2d 486 (1996) .....	18
<i>State v. Aalim</i> , 150 Ohio St.3d 489, 2017-Ohio-2956, 83 N.E.3d 883 .....	35, 41
<i>State v. Amos</i> , 2017-Ohio-8448, 87 N.E.3d 1305 (1st Dist.).....	6
<i>State v. Bellman</i> , 86 Ohio St.3d 208, 714 N.E.2d 381 (1999) .....	22
<i>State v. D.W.</i> , 133 Ohio St.3d 434, 2012-Ohio-4544, 978 N.E.2d 894 .....	35
<i>State v. Dangler</i> , Slip. No. 2020-Ohio-2765 .....	31
<i>State v. Eley</i> , 56 Ohio St.2d 169, 383 N.E.2d 132, 10 O.O.3d 340 (1978).....	7
<i>State v. Hanning</i> , 89 Ohio St.3d 86, 88, 728 N.E.2d 1059 (2000) .....	42
<i>State v. Kreischer</i> , 109 Ohio St.3d 391, 2006-Ohio-2706, 848 N.E.2d 496.....	19
<i>State v. Morgan</i> , Slip Opinion No. 2017-Ohio-7565.....	18, 19

<i>State v. Raber</i> , 134 Ohio St.3d 350, 2012-Ohio-5636, 982 N.E.2d 684.....	14
<i>State v. Smith</i> , 196 Ohio App.3d 431, 2011-Ohio-3786, 964 N.E.2d.....	48
<i>State v. Ventura</i> , 1st Dist. No. C-150495, 2016-Ohio-5151, 69 N.E.3d 189.....	48
<i>State v. Walls</i> , 96 Ohio St.3d 437, 2002-Ohio-5059, 775 N.E.2d 829 .....	42
<i>State v. Walker</i> , 55 Ohio St.2d 208, 217, 378 N.E.2d 1049 (1978).....	7
<i>State v. Williams</i> , 129 Ohio St.3d 344, 2011-Ohio-3374, 952 N.E.2d 1108 .....	31, 48
<i>State v. Williams</i> , 51 Ohio St.2d 112, 364 N.E.2d 1364 (1977) .....	7
<i>The State, ex rel. Schartz, Judge v. Haines, Director of Mental Hygiene and Correction</i> , 172 Ohio St. 572, 573, 179 N.E.2d 46 (1962) .....	10
<i>Wachendorf v. Shaver</i> , 149 Ohio St. 231, 237, 78 N.E.2d 370, 374 (1948).....	19
<i>Wisconsin v. Constantineau</i> , 400 U.S. 433, 437, 91 S.Ct. 507, 27 L.Ed.2d 51 (1971) .....	33

## **Statutes**

Chapter 2151 .....	10
Chapter 2152.....	10
R.C. 1.42 .....	19
R.C. 2151.01 .....	21
R.C. 2151.011 .....	9, 10
R.C. 2151.07 .....	10
R.C. 2151.08 .....	10
R.C. 2151.23 .....	10, 12, 13, 16, 30
R.C. 2151.352 .....	29
R.C. 2151.356 .....	37
R.C. 2151.358 .....	37

R.C. 2152.01 .....	19
R.C. 2152.02 .....	9, 10, 11, 13, 25, 26, 38
R.C. 2152.13 .....	12, 19
R.C. 2152.14 .....	12
R.C. 2152.16 .....	19, 29
R.C. 2152.19 .....	19, 29
R.C. 2152.22(A).....	24, 26
R.C. 2152.82 .....	22, 34
R.C. 2152.83 .....	<i>passim</i>
R.C. 2152.84 .....	<i>passim</i>
R.C. 2152.85 .....	<i>passim</i>
R.C. 2950.01 .....	15
R.C. 2950.02 .....	37, 38, 39
R.C. 2950.07 .....	9, 25
R.C. 5139.06 .....	29
R.C. Chapter 2950.....	9, 48

## **Rules**

Juv.R. 2 .....	19
Juv.R. 27 .....	29
Juv.R. 34 .....	29
Juv.R. 35 .....	29
Juv.R. 40 .....	26

## **Constitutional Provisions**

Article I, Section 16 ..... 33

Fourteenth Amendment to the United States Constitution ..... 33

## **Other Sources:**

Merriam-Webster Dictionary.....19

Elizabeth J. Letourneau et al., *The Influence of Sex Offender Registration on Juvenile Sexual Recidivism*, 20 *Crim. Just. Pol’y Rev.* 136 (2009).....39.

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## **STATEMENT OF THE CASE**

R.C. 2152.84 is the gatekeeper of the juvenile sex offender scheme. It ensures registration remains only for those children who, after juvenile court treatment and intervention, are likely to sexually reoffend. It is the procedure provided in this section which renders the classification of the youth of this state constitutional. The great import of this statute cannot be reduced through a tortured reading of the statute.

The procedure outlined in R.C. 2152.84 is not only of constitutional significance, but also is significant to the juvenile court's jurisdiction. Juvenile sex offender classifications can extend into adulthood, after a child's completion of their disposition, but that ability does not transform into authority. For these classifications to continue, the juvenile court must comply with the statutory constraints provided in the sex offender scheme and act within its traditional jurisdiction.

## **STATEMENT OF FACTS**

### **A. R.B. had an unstable childhood.**

In the winter of 2010, when R.B. was just 14 years of age, his life was in a state of complete upheaval. He did not have a stable home environment or parental care. At the time, R.B. was homeless. (Def. Ex. 13). His mother, father, and ste father all had a history of using crack cocaine (Def. Ex. 13,14). "Due to these substance abuse issues, his [parents] were unable to provide a safe and stable home environment for [R.B]" which made it "difficult for R.B. to adjust to the stressors of life." (Def. Ex. 13). R.B. also struggled in school." (S-35). He also had a number of mental health diagnoses that had not been addressed. *See* (Def. Ex. 13).

### **B. Juvenile Court intervenes -- R.B. is adjudicated and classified.**

Against this backdrop, in December 2010, R.B. allegedly committed what would be sexually-oriented offenses if committed by an adult against two cousins. A complaint was filed



in Hamilton County Juvenile Court 10 months later on September 21, 2011. These would be R.B.'s first and only charges in juvenile court.

One month later, after the charges were amended, R.B. entered a plea of admit, and was found delinquent. (S-16). On December 2, 2011, the juvenile court held a disposition hearing for the adjudications. R.B. was "ordered to attend and complete the residential program at Altercrest as a condition of probation and to follow all rules and regulations of the placement facility and to adhere to all aftercare requirements." (S-4-7; S-79). The court also committed R.B. to the Department of Youth Services, but suspended that commitment.(S-6). This entry did not impose monitored time as a disposition. (S-4-7; S-79).

One month later, the court held a classification hearing on January 13, 2012. The juvenile court classified R.B. as a Tier I juvenile sex offender. (S-8-10). The entry informed R.B.: "Upon completion of the dispositions that were made for the sexually oriented offense upon which the order is based, a hearing will be conducted, and the order and any determinations included in the order are subject to modification or termination pursuant to ORC 2152.84." *Id.*

### **C. R.B. enters treatment and is successful.**

#### **1. R.B. engages in residential treatment.**

On December 2, 2011, R.B. was admitted into and began treatment at Altercrest. (Def. Ex. 13). R.B. had a good attitude going into treatment. (*Id.*). R.B. wanted to understand his motivation for his acting out behaviors such that he could stay out of trouble in the future. (Def. Ex. 6). At its core, the goals of treatment included: (1) learning basic treatment concepts; (2) identification of problematic sexual behaviors; and (3) identifying sexual triggers. (Def. Ex. 13). Ultimately, through programming, R.B. was expected to develop specific strategies for managing any problematic sexual thoughts, feelings, and behaviors. *Id.*

R.B. began in the intensive treatment portion of the program. R.B. was responsive and “made steady progress in treatment.” (Def. Ex. 14). On August 17, 2012, R.B. moved to the Altercrest Community Transition portion of the program. (Def. Ex. 17, p. 16). The purpose of this portion of treatment was to “assist him with transitioning back into the community.” (*Id.*). R.B. was described by his treatment team as “an ideal client at Altercrest.” (Def. Ex. 10, p. 10).

R.B. completed a 10-Step program and had completed “a relapse prevention and healthy living plan demonstrating the knowledge to manage sexual triggers in the community.” (S-31). R.B. was able “to identify positive reasons for treatment and has been able to take responsibility for past and current behaviors.” *Id.* Accordingly, R.B. completed all his residential program requirements and reached each of the goals outlined for him; on February 6, 2013, R.B. was released from residential and entered into the Altercrest outpatient program.

## **2. R.B. re-enters the community and completes out-patient and aftercare requirements of treatment.**

On February 6, 2013, the juvenile court terminated R.B.’s placement at Altercrest and placed him on electronic monitoring. (S-12). The next day, the juvenile court also terminated its “prior care, custody, and control” of R.B.; yet he remained on probation as he was still completing aftercare and the out-patient portion of his treatment. (S-13). This part of his treatment was to assist in his transition back into the community. R.B. was successfully released from electronic monitoring on March 7, 2013. (S-18).

In June 2013, Altercrest reported to juvenile court that R.B. was cooperative with his safety plan and demonstrated safe behaviors in the community. (Def. Ex. 15). As R.B.

successfully completed all aspects of the supervision plan, probation requested the juvenile court terminate R.B. from probation. (S-1).<sup>1</sup>

**D. R.B. officially completes treatment on July 29, 2013, and the juvenile court fails to review his classification.**

The juvenile court reviewed R.B.'s treatment and his success therein. (S-1). The court did not hold a hearing to determine whether registration continued to be necessary in light of R.B.'s success in treatment. (S-18). Rather, the juvenile court found R.B. "cooperated and abided by the terms of official probation." (S-14,15) And, on July 29, 2013, the court terminated R.B. from probation. (*Id.*). This signaled R.B.'s completion of his disposition and court-ordered treatment. No completion of disposition hearing was held at this time.

Also on July 29, 2013, by entry, the court placed R.B. on non-reporting probation with monitored time. (S-14, 15). There was no hearing or notice to R.B. of this disposition. (S-18, 24) The juvenile court did not have any contact with R.B. at or after this time.

**E. 15 months after R.B. completes treatment, the juvenile court schedules, but fails to hold the completion of disposition hearing.**

In October 2014, approximately 15 months after R.B. completed his treatment, the juvenile court scheduled a "completion of disposition hearing pursuant to ORC 2152.84." (S-18). Yet, the mandatory completion of disposition hearing never took place.

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<sup>1</sup> The probation termination report submitted to the court, in part, stated:  
Successful completion. Robert was placed on official probation 12/2/11 on a F4 GSI charge. He was placed at Altercrest for residential treatment and successfully completed this program on 2/6/13. Robert returned to his mother's home in Clermont County and continues to reside with her. Robert has one other GSI charge and has had no other charges since being released from Altercrest. Robert is terminating from sex offender outpatient treatment at Altercrest and a referral has been made to Child Focus, Inc. for outpatient individual and family counseling. Robert currently has a case manager through Child Focus that meets in the home. Goals completed: Robert completed 30 days with no violations; Robert completed SO outpatient treatment; Robert is medication compliant; Robert will be in the 10th grade at Glen Este High School with no behavioral issues reported; Minor issues reported in the home and addressed through service providers; Robert and his family meet with PO as scheduled; all drug screens have been negative.

**F. State requests the juvenile court to hold a completion of disposition hearing.**

On October 24, 2016, 39 months after R.B. completed treatment and was discharged from probation, the State requested a completion of disposition hearing be held. (S-19).

**G. R.B. challenges the juvenile court's jurisdiction.**

R.B. objected to the State's request asserting the juvenile court lacked jurisdiction to hold a completion of disposition hearing.<sup>2</sup> During these proceedings, the State did not assert, as it does now, that the juvenile court had "permanent" jurisdiction to review R.B.'s classification. The juvenile court overruled R.B.'s objections, found it had jurisdiction to hold a completion of disposition hearing based on R.B.'s placement on non-reporting probation with a suspended commitment, and continued the matter for a hearing in front of a magistrate. (A-19-A-24).

**H. Approximately four years after R.B. completes treatment, magistrate hears testimony as to R.B.'s treatment.**

On May 8, 2017, approximately 46 months after R.B. completed all treatment ordered by the juvenile court, the court held a completion of disposition hearing. Interestingly, the court did not terminate the suspended commitment or monitored time it previously found provided it with jurisdiction to conduct the R.C. 2152.84 hearing.

**I. R.B. is unable to present testimony due to passage of time.**

At the hearing, R.B. presented testimony as to the investigation into his treatment. Specifically, service providers were unavailable to discuss his treatment, progress, or future risk as it had been four years since he had last been seen. (S-38, 40; S-52-69). Some providers were unwilling to testify due to the lapse of time, and some could not be found. *Id.*

The magistrate waited another two months after the hearing to issue a decision. On July 13 and 14, 2017, the magistrate issued a decision continuing R.B.'s Tier I classification.

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<sup>2</sup> R.B. also requested a stay of the proceedings based on the appeal pending before the First District related to his failure to register conviction. This request was denied. (622-T.d. 55, 57; 623-T.d 82, 83, 84, 85, 93).

On July 20, 2017, R.B. turned 21.

**J. Juvenile Court continues the classification after R.B. turns 21.**

R.B. timely objected to the magistrate's decision. The juvenile court did not adopt the magistrate's decision or issue an interim order continuing R.B.'s classification. Approximately 3 months after R.B. turned 21, 5 months after the magistrate heard testimony, and 51 months after R.B. completed treatment, the juvenile court overruled R.B.'s objections and entered the order continuing his classification as a Tier I juvenile sex offender.

**K. R.B. appeals juvenile court's decision classifying him.**

R.B. filed an appeal. In the appeal, the State did not argue, as it does now, that the juvenile court's decision should be affirmed because the court had permanent jurisdiction. Upon review of R.B.'s appeal, the Court of Appeals noted that the juvenile court judge did not continue R.B.'s Tier I classification until after he turned age 21. Accordingly, the First District advised the parties to be prepared to address the juvenile court's jurisdiction and "the impact, if any, of *State v. Amos*, 2017-Ohio-8448, 87 N.E.3d 1305 (1st Dist.)." (S-78).

On August 16, 2019, the First District vacated R.B.'s classification. ("Because the trial court did not complete the statutorily-required process for classifying R.B. prior to the completion of his disposition upon turning 21, it had no jurisdiction to classify him as a Tier I offender"). *In re R.B.*, 1st Dist. Hamilton No. C-170622, 170623, 2019-Ohio-3298, ¶ 14, 16.

On September 30, 2019, the State filed a notice of appeal to this Court. R.B. filed a cross-appeal in this matter on October 10, 2019. This Court accepted jurisdiction over the State's sole proposition of law and R.B.'s proposition of law No. 3.<sup>3</sup> The State has filed its merit brief R.B.'s response and his arguments in support of his third proposition of law now follow

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<sup>3</sup> R.B. filed the instant cross-appeal setting forth additional reasons his classification was void. This court declined jurisdiction over his first and second propositions *In re R.B.*, Case No. 2019-1325, 2020-Ohio-647.

## ARGUMENT IN RESPONSE TO APPELLANT'S PROPOSITIONS OF LAW

### Appellee's Response to Appellant's Proposition of Law:

**A juvenile court is only vested with jurisdiction to issue juvenile sex offender classifications where it has been granted authority to do so by statute. Where a juvenile court imposes a classification under R.C. 2152.83, that classification remains valid up to the child's completion of the disposition. For classification to continue, the court must hold a hearing upon the completion of a child's disposition as required by R.C. 2152.84, and enter the order prior to the child's 21st birthday and at the time dictated by R.C. 2152.84.**

#### **I. State's Proposition of Law has been waived.**

According to the State: "Once a juvenile court makes an appropriate classification under R.C. 2152.83, it is permanently vested with jurisdiction to review the classification in accordance with R.C. 2152.84 and R.C. 2152.85." This proposition was abandoned below, as it was not argued to the court of appeals. R.B. requests this case be dismissed as improvidently accepted.

In *State v. Eley*, this Court overruled a proposition of law because the issue "was neither raised in the trial court nor was it assigned as error in the Court of Appeals." *State v. Eley*, 56 Ohio St.2d 169, 383 N.E.2d 132, 10 O.O.3d 340 (1978), *overruled* on other grounds. Additionally, this Court will not ordinarily consider a claim of error that was not raised in any way in the Court of Appeals. *See e.g Eley* at 170; *State v. Walker*, 55 Ohio St.2d 208, 217, 378 N.E.2d 1049 (1978); *State v. Williams*, 51 Ohio St.2d 112, 364 N.E.2d 1364 (1977).

In this matter, it was clear R.B. was challenging the juvenile court's jurisdiction to conduct the R.C. 2152.84 hearing and continue his classification. Had the State wanted to assert, as it does before this Court, that the juvenile court's decision should be affirmed because the juvenile court maintains permanent jurisdiction over classification orders, it could have done so.

But it did not. The State has waived the argument set forth in its proposition of law. Accordingly, R.B. requests the instant case be dismissed as being improvidently accepted.<sup>4</sup>

**II. Appellant's Proposition of Law must be rejected, as the juvenile court's jurisdiction is limited by age and the time frame found in R.C. 2152.84.**

Classification and placement on the registry for children in Ohio has its own unique process. The procedure implemented by the legislature provides specific steps that must be followed. Unlike adults whose classification attaches as a result of the offense, juveniles receive two assessments of the need for the penalty. R.C. 2152.83 and R.C. 2152.84. This process involves an individual assessment of the youth's need for the sanction, first, at the time of disposition or upon release from a secured facility, and second, once the child completes the disposition ordered by the juvenile court. *See* R.C. 2152.83, R.C. 2152.84, *In re I.A.*, 140 Ohio St.3d 203, 2014-Ohio-3155, 16 N.E.3d 653. For children classified under R.C. 2152.83(B), like R.B., registration is temporary and continues only if, at the second assessment, the court finds the child remains a threat to sexually re-offend and issues a classification order. *See* R.C. 2152.84.

At issue in the case is when a juvenile court loses jurisdiction over a delinquent youth to conduct the mandatory hearing and enter a valid continuation of the classification under R.C. 2152.84. The State contends the juvenile court is provided permanent jurisdiction over matters of classification by complying only with the timing requirements set forth in R.C. 2152.83. (*See* State's Merit brief p. 15). While the State concedes that the hearing under R.C. 2152.84 is mandatory, it argues the timing of this hearing is flexible and was meant to occur "around the time the juvenile has finished disposition." *Id.* at p. 14-15. The crux of the State's argument is because the legislature has permitted juvenile sex offender classifications to extend for the duration of the registration period set forth in R.C. Chapter 2950 (i.e. 10 years, 20 years, or

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<sup>4</sup> While R.B. did file a cross-appeal, as he believes his classification could have been vacated for a number of reasons, if the Court dismisses the State's appeal, such a decision renders his proposition of law moot.

lifetime), the juvenile court, as a result, retains *jurisdiction* to impose this punishment. The State's proposition must be rejected.

While juvenile courts have the *ability* to impose classifications upon juveniles and such classifications *can* extend for 10 years, 20 years, or potentially the lifetime of the individual, this ability does not transform into authority. *See* R.C. 2950.07. Rather, the juvenile court, as a court of limited jurisdiction, must act when it has been granted the *authority* to do so by the legislature. *See In re Agler*, 19 Ohio St.2d 70, 72-74, 294 N.E.2d 808 (1969). Absent from the State's argument is the recognition of these traditional limitations on juvenile court jurisdiction. The court's jurisdiction is limited by statute as well as constitutional constraints. The juvenile court only has jurisdiction over a "child" adjudicated delinquent. R.C. 2151.011; R.C. 2152.02. Once the child turns 21, the juvenile court's jurisdiction is lost as the person is no longer a "child". R.C. 2152.02(C)(3). Furthermore, due to the criminal aspect of juvenile delinquency, jurisdiction terminates once the disposition has been fully satisfied. *In re Cross*, 96 Ohio St.3d 328, 2002-Ohio-4183, 774 N.E.2d 258. Finally, although the legislature provided an extension of the juvenile court's jurisdiction limited to valid juvenile sex offender classification orders, this extension is narrow, and the court must comply with the timing requirements of the statutes in order to obtain that extension. *See State ex rel. Jean-Baptiste v. Kirsch*, 134 Ohio St.3d 421, 2012-Ohio-5697, 983 N.E.2d 302.

Here, the juvenile court lacked subject matter jurisdiction to issue a classification order pursuant to R.C. 2152.84 because (1) once R.B. turned 21, he was an adult and no longer a "child" for purposes of R.C. 2152.02; (2) R.B. had fully satisfied his disposition; and (3) the juvenile court did not comply with the mandatory timing requirements under R.C. 2152.84.

R.B. respectfully requests this Court to reject the State's proposition of law.



**A. Traditional Limitations on Juvenile Court Jurisdiction Still Apply to Classifications.**

“A juvenile court’s power is derived from Section 1, Article IV of the Constitution of Ohio, and the court is established and its jurisdiction is defined by [O.R.C.] Chapter 2151. . . .” *The State, ex rel. Schartz, Judge v. Haines, Director of Mental Hygiene and Correction*, 172 Ohio St. 572, 573, 179 N.E.2d 46 (1962). The juvenile courts’ jurisdiction is set forth in Chapters 2151 and 2152 of the Revised Code.<sup>5</sup> See R.C. 2151.011(A)(1); R.C. 2151.07; R.C. 2151.08.

**1. Juvenile Court Subject-Matter Jurisdiction terminates at age 21.**

R.C. 2151.23(A)(1) confers exclusive and original jurisdiction to the juvenile court for those children alleged to be delinquent. R.C. 2151.23(A)(1). R.C. 2152.02 further defines and limits the court’s jurisdiction and authority of those alleged to be a delinquent child.<sup>6</sup> Specifically, R.C. 2152.02(C) includes eight subparts and defines what is meant by “child” as it is used in Chapter 2152. The applicable subsection to this case, R.C. 2152.02(C)(6), provides: “The juvenile court has jurisdiction over a person who is adjudicated a delinquent child \* \* \* prior to attaining eighteen years of age until the person attains twenty-one years of age.”

As stated by this Court: R.C. 2152.02(C)(6) is “straightforward.” *In re J.V.*, 134 Ohio St.3d 1, 979 N.E.2d 1203, 2012-Ohio-4961, ¶ 23. “[J]uvenile courts have jurisdiction over delinquents until they are 21 years old. The obvious flip side of that statement is that juvenile courts do not have jurisdiction over adjudicated delinquents once they are 21 years old.” *Id.*

This Court has consistently found that where the juvenile court acts outside of this age limitation, the action is outside the court’s jurisdiction and the order of the court is void. *See e.g. In re A.W.*, Slip Opinion No. 2020-Ohio-1457 (finding the juvenile court loses subject-matter

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<sup>5</sup> Juvenile court jurisdiction in delinquency matters was moved to R.C. Chapter 2152, which was added to the Ohio Revised Code in 2002. *See*, S.B. No. 179, 148 Ohio Laws, Part IV, 9447.

<sup>6</sup> In delinquency proceedings, R.C. 2152.02(C)(1) defines the term “child” to generally mean a person who is under 18 years. However, R.C. 2152.02(C)(2) through (C)(8) provides exceptions to this general definition of “child.”

jurisdiction over child when the child attains 21 years of age and juvenile court's order invoking adult portion of child's sentence journalized the day after child's 21st birthday are void); *In re J.V.*, 134 Ohio St.3d 1, 2012-Ohio-4961, 979 N.E.2d 1203, , ¶ 24 (finding the juvenile court lacked jurisdiction to conduct a de novo sentencing hearing to correct post release control for a serious youthful offender sentence for a person who turned 21).

This clear lapse in the juvenile court's subject-matter jurisdiction upon the child's attainment of age 21 has also been recognized in the context of juvenile sex offender classifications. *See e.g. Jean-Baptiste*, 2012-Ohio-5697 at ¶ 28 ("juvenile courts do not have jurisdiction over adjudicated delinquents once they are 21 years old"); *In re G.M.*, 188 Ohio App.3d 318, 2010-Ohio-2295, 935 N.E.2d 459, ¶ 19 (3d. Dist) (juvenile court lacked jurisdiction to classify a juvenile offender as a sex offender registrant where the hearing occurred on the child's 21st birthday); *In re J.B.*, 5th Dist. Morrow No. 15 CA 0002, 2016-Ohio-98, ¶ 17-19 (motion to vacate should have been granted, as juvenile court lost jurisdiction to classify youth as a juvenile sex offender the day he turned 21).

R.C. 2152.02(C)(6) clearly limits the jurisdiction of the juvenile court to matters regarding a *child* who has been adjudicated a delinquent child *until* that child attains age 21.<sup>7</sup> This Court has repeatedly found this termination of jurisdiction upon attainment of age 21 controls even where the legislature has granted the juvenile courts the ability to impose a sanction past the child's attainment of age 21. For instance, in both *In re A.W.* and *In re J.V.*, this Court concluded the juvenile court lacked subject-matter jurisdiction to invoke the adult portion of the juvenile's serious youthful offender (SYO) sentence. *In re A.W.* at ¶ 8; *In re J.V.* at ¶ 23-24. While the legislature, pursuant to R.C. 2152.13 and R.C. 2152.14, has provided juvenile

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<sup>7</sup> There is an extension of the juvenile court's jurisdiction beyond the age of 21, but the extension only applies to hearings on the "complaint." R.C. 2152.02(C)(2). This section is inapplicable to this case as the hearing on the classification occurred post-adjudication and post-disposition. *Jean-Baptiste* at ¶ 21-25.

courts with the *ability* to impose a SYO sentence which extends beyond the attainment of age 21, it does not automatically follow that the court similarly has jurisdiction and the authority to impose that penalty after the attainment of age 21. Rather, as evidenced by *In re J.V.* and *In re A.W.*, the juvenile court must act and issue the invocation of the adult portion of the SYO at a time in which it has jurisdiction over the case and the child.<sup>8</sup> The same rationale applies equally to the court's jurisdiction to issue orders under R.C. 2152.84.

Accordingly, the attainment of age 21 terminates the juvenile court's ability to issue classification orders pursuant to R.C.2152.84.<sup>9</sup>

## **2. Juvenile courts only have authority to classify a “child.”**

R.C. 2151.23(A)(15) provides the juvenile court with jurisdiction:

To conduct the hearings, and to make the determinations, adjudications, and orders authorized or required under sections 2152.82 to 2152.86 and Chapter 2950. of the Revised Code regarding *a child* who has been adjudicated a delinquent child (Emphasis Added).

*See also In re G.M.*, 2010-Ohio-2295 at ¶ 7, 18. While R.C. 2151.23 grants the juvenile court the ability to conduct juvenile sex offender hearings, it only provides the court the authority and jurisdiction to conduct those hearings and issue orders for those considered a “child.” And, as set forth above, R.C. 2152.02 defines what is meant by “child” for purposes of Chapter 2152. Although inapplicable to this case, R.C. 2151.23 does provide the juvenile court with jurisdiction over some adults. *See e.g.* R.C. 2151.23(A)(5); (A)(6); (A)(16). Had the legislature intended juvenile courts to have jurisdiction over “an adult” for purposes of classification hearings under R.C. 2151.23(A)(15), it would have expressly said so.

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<sup>8</sup> R.B. notes that this Court recognized the lack of subject-matter jurisdiction as dispositive even though it was not previously argued by the parties. *See In re A.W.*, Slip Opinion, 2020-Ohio-1457, ¶ 7

<sup>9</sup> As set forth more fully below, the classification order under R.C. 2152.83 survives only during the dispositional period. If the classification is to move past that time, the juvenile court must act and issue an order under R.C. 2152.84. The classification order under R.C. 2152.83 is not automatically extended. *Infra p.* 14-16.

Based on the foregoing, once the child attains 21 years of age, these statutes make clear that the person is no longer a “child” related to that disposition. The juvenile court’s jurisdiction to issue classification orders under R.C. 2151.23(A)(15) is therefore over.

### **3. Juvenile court’s jurisdiction terminates once the disposition is complete.**

Not only are there general statutory limitations to the juvenile court’s jurisdiction, but the juvenile court’s traditional jurisdiction is also constitutionally limited. It is well-established that a juvenile court’s jurisdiction over a child adjudicated delinquent ends once the disposition is satisfied. *In re Cross*, 96 Ohio St.3d 328, 2002-Ohio-4183, 774 N.E.2d 258. In *Cross*, this Court explained that “[t]he criminal aspects of juvenile delinquency proceedings require greater constraints on juvenile courts.” *Id.* at ¶ 25. Accordingly, this Court found the termination of a child’s probation ended the court’s jurisdiction and “ability to make further dispositions \* \* \* on that delinquency count.” *Id.* at ¶ 28. In reaching this conclusion, it was noted that the disposition is the tether that allows the juvenile court to maintain some connection with the juvenile. *In re Cross* at ¶ 27. Once disposition is complete, that tether is gone, and the juvenile court no longer has jurisdiction to make further dispositions of that child. *Id.* at ¶ 28. In 2009, this Court re-affirmed the holding in *Cross*, and held that once a juvenile completes all orders of community control, then the court loses jurisdiction. *In re J.F.*, 121 Ohio St.3d 76, 2008-Ohio-318, 902 N.E.2d 19, ¶ 13, 15.

The principle announced in *Cross* has been recognized in the context of juvenile sex offender classifications. *State ex rel. Jean-Baptiste v. Kirsch*, 134 Ohio St.3d 421, 2012-Ohio-5697, 983 N.E.2d 302 (“The reasoning behind *Cross* also applies to Jean-Baptiste’s case”). There, the juvenile asserted juvenile court lacked jurisdiction to classify him as he was 21 and had been released from a secured facility. Pursuant to R.C. 2152.83(A)(1), the classification

order is to be issued at the time of the release from the custody of a secure facility. Therefore, this Court found: “[b]ecause the juvenile court lacks statutory authority to classify Jean-Baptiste after he was released *and the court’s delinquency disposition has been fully satisfied*, \* \* \* the juvenile court lacks jurisdiction to classify Jean-Bapiste.” (Emphasis Added). *Id.* at ¶ 32.

Based on the foregoing, once the delinquency disposition has been fully satisfied, the juvenile court lacks jurisdiction to enter further dispositions and classifications.

**B. Juvenile court’s jurisdiction to hold sex offender hearings and issue classification orders is tied to compliance with the statutory scheme.**

**1. R.C. 2152.83 and R.C. 2152.84 must be read together.**

Although registration is initially imposed under R.C. 2152.83, the order does not survive in perpetuity. The R.C. 2152.83 order is “subject” to R.C. 2152.84. *See* R.C. 2152.83(C) (E). The initial order is only in effect during the dispositional period. It acts as the “carrot” to aid in the child’s rehabilitation; the child was promised at imposition of the classification that their status would be reviewed “upon completion of disposition.” R.C. 2152.83(C). *See State v. Raber*, 134 Ohio St.3d 350, 2012-Ohio-5636, 982 N.E.2d 684. R.C. 2152.83(C) provides:

“[U]pon completion of the disposition of the delinquent child that was made for the sexually oriented offense or child-victim oriented offense upon which the order is based, a hearing will be conducted and the order is subject to modification or termination pursuant to section 2152.84.

R.C. 2152.84(A)(1) states:

When a juvenile court judge issues an order under section 2152.82 or division (A) or (B) of section 2152.83 of the Revised Code that classifies a delinquent child a juvenile offender registrant \* \* \* *upon completion of the disposition* of that child made for the sexually oriented \* \* \* on which the juvenile offender registrant order was based, the judge \* \* \* *shall conduct a hearing* to review the effectiveness of the disposition and of any treatment provided for the child, to determine the risk that the child might re-offend, to determine whether the prior classification of the child as a juvenile offender registrant should be continued or terminated as provided under division (A)(2) of this section, and to determine whether its prior

determination made at the hearing held pursuant to section 2152.831 of the Revised Code as to whether the child is a tier I sex offender \* \* \*, a tier II sex offender \* \* \*, or a tier III sex offender\* \* \* should be continued or modified as provided under division (A)(2). (Emphasis Added).

R.C. 2152.84(A)(2) thereafter makes clear “upon completion” of the hearing under (A)(1), the judge must do one of the following: (1) enter an order that continues the classification *and* continues the prior tier level; (2) enter an order that determines the child is no longer a juvenile sex offender registrant, and no longer has a duty to register; or (3) continues the classification, but modifies the tier level of the child. *See* R.C. 2152.84(A)(2)(a) – (c).

R.C. 2950.01 similarly evidences the intent that R.C. 2152.84 is not simply a review hearing. *See* R.C. 2950.01(E)(3); (F)(3); (G)(3) (defining Tier I, II, and III sex offenders as those “a juvenile court, pursuant to \* \* \* Section 2152.84 \* \* \* classifies). R.C. 2152.84 results in its own classification order.

“A court must interpret a statute so as to give effect to every word in it.” *Naylor v. Cardinal Local Sch. Dist. Bd. of Educ.*, 69 Ohio St.3d 162, 170, 1994-Ohio-22, 630 N.E.2d 725, citing *E. Ohio Gas Co. v. Pub. Util. Comm.*, 39 Ohio St.3d 295, 530 N.E.2d 875 (1988). The requirements set forth in R.C. 2152.83 and R.C. 2152.84 must be read together. Accordingly, it is insufficient for the juvenile court to *only* comply with the timing requirements of R.C. 2152.83. The legislature made clear that in order for the classification imposed under R.C. 2152.83 to continue *past* disposition, another hearing must be held to determine if the classification order should be continued, modified, or terminated. R.C. 2152.83(C); R.C. 2152.84(A)(1)(2). And, after the hearing, a classification order issued must be issued under R.C. 2152.84. It therefore takes an affirmative act by the juvenile court for the duty to register to continue. *See* R.C. 2152.84(A)(2).

To accept the State's proposition, this Court would have to not only ignore the plain language of R.C. 2152.83 and R.C. 2152.84, but it would have to ignore the entire provision of R.C. 2152.84. The State's proposition must be denied.

**2. The statutory scheme in R.C. 2152.83-.85 provide juvenile courts with jurisdiction and authority to issue juvenile sex offender classification orders.**

As a statutory court, juvenile court only has jurisdiction to issue orders as *authorized* by R.C. 2152.83-84. *See* R.C. 2151.23(A)(15). Therefore, orders issued outside of the limits provided by the statute are without authority and without jurisdiction. *Compare Johnson v. Sloan*, 154 Ohio St.3d 476, 2018-Ohio-2120, 116 N.E.3d 91, (if juvenile court fails to comply with mandatory requirements of bindover statute, its purported transfer to adult court is ineffective and void); *see also State v. Payne*, 114 Ohio St.3d 502, 2007-Ohio-4642, 873 N.E.2d 306, ¶ 27.

This Court has faced a number of challenges to the juvenile sex offender scheme. There is one over-arching theme to each of those decisions: was the juvenile court's action permitted by the statutory scheme? For instance, in *In re I.A.*, this Court found pursuant to R.C. 2152.83(B) the juvenile court may hold an initial classification hearing for a delinquent child committed to a secured facility either upon the release from the secured facility or at disposition. *In re I.A.*, 140 Ohio St.3d 203, 2014-Ohio-3155, 16 N.E.3d 653, ¶ 15. In *In re D.S.*, this Court found because the statutory scheme did not mandate *when* a court must make a determination of the child's age to impose registrant status, it could be determined prior to or at the classification hearing. 146, Ohio St.3d 1184, 2016-Ohio-1027, 54 N.E.3d 1184 at ¶ 17. And, finally, as outlined above, in *Jean-Baptiste*, this Court found the juvenile court lacked jurisdiction to impose a classification pursuant to R.C. 2152.83(A) as the child had already been released from a secured facility. 134 Ohio St.3d 421, 2012-Ohio-5697, ¶ 32. This Court's precedent is clear: juvenile courts must

comply with the statutory requirements to impose classifications and registrant status on Ohio's youth. There is simply no reason for R.C. 2152.84 to be treated any differently. *Id.* at ¶ 25, 27.

Thus, R.C. 2152.84 provides the requirements which must be followed for the juvenile court to have jurisdiction to act. As aptly stated in *Jean-Baptiste*, the timing requirements in the sex-offender statutes are the legislature's clear expression and intent that juvenile courts lose their ability to hold the classification hearing after the time provided. *Jean-Baptiste* at ¶ 28, 30 ("R.C. 2152.83(A)(1) plainly states that the court shall issue the classification order at the time of the child's release from a secure facility. This is a clear expression of the legislature's intent that juvenile courts lose their ability to hold classification hearings at that time"). *Id.* at ¶ 30.

Courts across the State have reached the same conclusion: the failure to comply with the clear mandated timing requirements of juvenile sex offender statutes renders the court without jurisdiction, and the classification void. *See e.g. In re McAllister*, 5th Dist. Stark No. 2006CA00073, 2006-Ohio-5554, ¶ 10 (juvenile court lost jurisdiction to classify the juvenile because 13 months had elapsed since his release from department of youth services (DYS)); *In re T.W.*, 11th Dist. Ashtabula No. 2015-A-0013, 2015-Ohio-5213, ¶ 24 (juvenile court lacks jurisdiction to conduct an untimely hearing); *In re Mudrick*, 5th Dist. Stark No. 2007-CA-00038, 2007-Ohio-6800, ¶ 16; *In re L.N.*, 6th Dist. No. WD-16-043, 2018-Ohio-3982, 121 N.E.3d 795.

R.C. 2152.84(A) is clear that each child classified "receives a mandatory hearing at the completion of the juvenile's disposition." *In re I.A.* ¶ 17. R.C. 2152.84 plainly states "upon completion of the disposition" the juvenile court "shall" conduct a classification hearing. This is a clear expression of the legislature's intent that juvenile courts lose their ability to hold this classification hearing after that time. *Compare Jean-Baptiste* at ¶ 30. As this Court has already



concluded the timing requirements within the juvenile sex offender statutory scheme are jurisdictional, there is no reason to revisit that well-settled precedent. *Jean-Baptiste* at ¶ 32.

**5. The juvenile court only has jurisdiction to conduct a R.C. 2152.84 hearing “upon the completion of disposition.”**

It is undisputed that R.C. 2152.84 requires a mandatory hearing to occur “upon completion of disposition.” However, the parties in this case disagree what “upon completion of disposition” means. The State asserts what is meant by “upon the completion of disposition” “can only be interpreted to be at such time that the juvenile court can reasonably give consideration to how the juvenile responded to all aspects of the imposed disposition and adequately assess future risk.” (State’s Merit Brief p. 17). Yet, the State fails to set forth with any precision the timing for this hearing. The State’s proposed reading is unworkable, provides little guidance to juvenile courts, causes uncertainty for juvenile offenders, does not comport with this Court’s prior precedent, and is contrary to the plain language of R.C. 2152.84.

**a. The plain language of R.C. 2152.84 dictates the hearing must occur at the completion of disposition.**

A court’s main objective in statutory construction is to determine and give effect to the legislative intent. *State v. Morgan*, Slip Opinion No. 2017-Ohio-7565, ¶ 20 --- N.E.3d ---, citing *State ex rel. Solomon v. Police & Firearm’s Disability & Pen. Fund Bd. of Trustees*, 72 Ohio St.3d 62, 65, 647 N.E.2d 486 (1996). To determine the intent of the General Assembly, this Court looks primarily to the language of the statute itself. *Morgan* at ¶ 20.

In looking at the language of a statute, the court’s first duty is “to determine whether the statute is clear and unambiguous.” *Estate of Heintzelman v. Air Experts, Inc.*, 126 Ohio St.3d 138, 2010-Ohio-3264, 931 N.E.2d 548, ¶ 15. And where the words used by the General Assembly plainly and unambiguously convey its legislative intent, there is nothing for a court to

interpret or construe; therefore, the court applies the law as written. *In re I.A.*, 2014-Ohio-3155 at ¶ 12, citing *State v. Kreischer*, 109 Ohio St.3d 391, 2006-Ohio-2706, 848 N.E.2d 496. If the language by the legislature is plain and unambiguous, courts may not delete or insert words. *Wachendorf v. Shaver*, 149 Ohio St. 231, 237, 78 N.E.2d 370 (1948) and *Cline v. Ohio Bur. of Motor Vehicles*, 61 Ohio St.3d 93, 97, 573 N.E.2d 77 (1991). Terms that are undefined by the legislature are accorded their common, everyday meaning. *Morgan* at ¶ 21; R.C. 1.42.

Here, R.C. 2152.84 is clear and unambiguous. This mandatory hearing is to occur “upon the completion of disposition.” R.C. 2152.84. There is no ambiguity in the legislature’s choice of words. This phrase has only one meaning. “Upon” means on. Merriam-Webster Dictionary, “Upon” <https://www.merriam-webster.com/dictionary/upon> (Last accessed May 5, 2020). The ordinary meaning of completion is the state of being complete, or to be brought to an end. *See* Merriam-Webster Dictionary, “Complete” <https://www.merriamwebster.com/dictionary/complete> (Last accessed July 19, 2018); *Id.*, “Completion” <https://www.merriam-webster.com/dictionary/completion> (Last accessed May 5, 2020).

Finally, disposition is a term of art used in juvenile court which is essentially the action or consequence ordered by the juvenile court as result of the child’s adjudication. *See* Juv.R. 2(M). The juvenile court is provided wide discretion in selecting an appropriate disposition. *See* R.C. 2152.01(A); R.C. 2152.19(A)(8); *see e.g.* R.C. 2152.13 (serious youthful offender dispositions); R.C. 2152.16 (commitment to DYS); R.C. 2152.19 (additional dispositions such as community control). It is plain and unambiguous what the legislature meant by disposition. While the actual disposition might be different for different children, (i.e. commitment to DYS; community control sanctions; treatment), the meaning of disposition is clear and is something that is able to be discerned by the juvenile court. *See e.g. In re Cross*, 96 Ohio St.3d 328, 2002-

Ohio-4183, 774 N.E.2d 258, ¶ 28 (finding the completion of probation signaled the end of the child's disposition); *In re J.F.* (finding where child is placed on community control, disposition was complete when the juvenile completed each condition of community control).

R.C. 2152.84 plainly states the court shall hold the classification hearing at the time the child completes their disposition. *See In re C.P.*, 131 Ohio St.3d 513, 2012-Ohio-1446, 967 N.E.2d 729, ¶ 23 (In comparing traditional juvenile offender registrants to public-registry-qualified juvenile-offender registrants, it was noted that traditional juvenile offenders' classification is reevaluated when their juvenile disposition ends). As the language is plain and unambiguous language, there is no need to further engage in further statutory interpretation.

**b. Although the plain language is unambiguous, R.B.'s interpretation is logical and fits within the purpose of juvenile court, and comports with due process.**

The disposition is the tether that allows the juvenile court to maintain some connection with the juvenile. *In re Cross*, 2002-Ohio-4183 at ¶ 27. Once disposition is complete, that tether is gone. *Id.* at ¶ 28. Because the juvenile court's authority over the youth ends with the termination of the disposition, it is logical that the court's review of whether the classification is necessary should take place at that time. It also permits the juvenile court to hold the hearing when it is supervising the child. This makes it easy to locate the child and order them to participate in a risk-assessment. The timing is logical and tied to the purpose of the hearing. Finally, it is practical. In the context of R.C. 2152.83(A)(1) it is well recognized that those classification orders must be issued at the release from a secured facility. *See In re D.J.*, 2018-Ohio-569, 106 N.E.3d 864, ¶ 20. Similarly, as the court controls when the child completes their disposition; it is not unreasonable for the classification order under R.C. 2152.84 to be issued at that time.

If the classification is continued either at its original or a modified tier level, the court's ability to review the classification is then controlled by R.C. 2152.85 and the child petitions for review.

As R.C. 2152.84 is clear on its face, it is not necessary to consider how the statute fits within the philosophical background of the juvenile justice system. Yet, it is clear that requiring the juvenile sex offender classification to be reviewed at the time the child completes their disposition comports with the purpose of juvenile court and the overall aim of the juvenile sex offender scheme. The legislature has made clear the central purpose of the juvenile court system is “[t]o provide for the care, protection, and mental and physical development of children.” R.C. 2151.01(A). The legislature has also made clear that the laws governing the administration of the juvenile courts must be “liberally interpreted and construed” to effectuate the above purposes. R.C. 2151.01. The purpose of R.C. 2152.84 is to determine whether after the disposition and rehabilitative efforts of the juvenile court, the child remains a threat to society such that registration must be continued. *In re D.S.*, 2016-Ohio-1027 at ¶ 35. This purpose is eviscerated if the juvenile court is not required to hold this hearing at the time the disposition is completed.

Furthermore, R.B.'s proposed timing of the hearings ensures due process is complied with. In *In re D.S.*, 146 Ohio St.3d 182, 2016-Ohio-1027, 54 N.E.3d 1184, this Court reviewed the full statutory scheme, including R.C. 2152.83, R.C. 2152.84, and R.C. 2152.85, and concluded that a youth's due process rights were not violated by registration requirements that continue beyond the offender's reaching age 18 or 21. In reaching this conclusion, this Court found significant that pursuant to R.C. 2152.84, the statutory scheme required the juvenile court to determine “upon the completion of disposition” whether the classification status remained necessary, or whether the rehabilitative efforts had been met. *In re D.S.* at ¶ 35. This Court also noted that it was only R.C. 2152.85 which would apply “after the completion of disposition” to

permit review of a registrant's status. *Id.* at ¶ 36. It was the required procedure built into the statutory scheme which rendered R.C. 2152.82 – R.C. 2152.85 constitutional and comported with the special role of juvenile courts. A decision in the State's favor would run contrary to this Court's precedent announced in *In re D.S.*

**6. State's claims that R.C. 2152.84 is non-jurisdictional lack merit.**

**a. Timing requirement in R.C. 2152.84 is not directory; it is mandatory and therefore jurisdictional.**

The State contends the timing requirement set forth in R.C. 2152.84 is directory, and therefore not jurisdictional. The State mainly relies on this Court's decision in *State ex rel. Jones v. Farrar*, 146 Ohio St. 467, 471–472, 544, 66 N.E.2d 531 (1946). The State also contends that *State v. Bellman*, 86 Ohio St.3d 208, 714 N.E.2d 381 (1999) requires a decision in its favor. These same arguments now raised by the State were raised by the dissent in *Jean-Baptiste* and were rejected by the majority of the court. *Jean-Baptiste*, 2012-Ohio-56947 at ¶ 31. Similarly, the State's arguments must again be rejected by this Court. *Id.*

Moreover, when the principles of *Farrar* are reviewed, it becomes clear there is no reason to uproot the prior decision by this Court. “A mandatory statute may be defined as one where noncompliance \* \* \* will render the proceedings to which it relates illegal and void.” *State ex rel. Jones v. Farrar*, 146 Ohio St. 467, 471–472, 544, 66 N.E.2d 531 (1946). Where a statute contains the word “shall,” the provision will generally be construed as mandatory. *Dorrian v. Scioto Conservancy Dist.*, 27 Ohio St.2d 102, 56 O.O.2d 58, 271 N.E.2d 834, (1971) paragraph one of the syllabus. R.C. 2152.84 states “upon completion of disposition” juvenile court “shall” hold a hearing and “shall” issue an order. R.C. 2152.84(A)(1) and (A)(2).

In *In re Davis*, this Court noted that in some circumstances, even when the word “shall” is used, the statutory time provision may be directory and may simply be for convenience or

provide for an orderly procedure. 84 Ohio St.3d 520, 705 N.E.2d 381 (1999). However, where the nature of the act performed or the phraseology of the statute or other statutes relating to the same subject-matter is such that it must be considered limited upon the power of the officer, then the statutory time is mandatory and does relate to the court's jurisdiction. *Davis* at 522, citing *State ex rel. Smith v. Barnell*, 109 Ohio St. 246, 255, 142 N.E. 611 (1924).

The timing requirement in R.C. 2152.84 is not simply for convenience or for orderly procedure. As made clear in *In re D.S.*, the timing and the requirement of having a classification order issued at the time of the completion of the disposition is what ensures due process and fundamental fairness in the juvenile offender classification process. *In re D.S.*, 146 Ohio St.3d 182, 2016-Ohio-1027, 54 N.E.3d 1184, ¶ 35. Further, the nature of the act performed, the holding of a completion of disposition hearing, must be considered a limitation on the power of the juvenile court to act as other statutes restrict the jurisdiction of the court for untimeliness. *See Jean-Baptiste* at ¶ 31. Finally, because R.C. 2152.84 relates to a delinquency matter and the imposition of an adult penalty, the juvenile court's jurisdiction is limited. *In re Cross* at ¶ 27. The timing restraints of R.C. 2152.84 must be read as mandatory and therefore jurisdictional.

**b. R.C. 2152.83(E) does not provide for jurisdiction but rather continues *valid classification orders*.**

At its core, the State's argument in favor of finding permanent jurisdiction hinges entirely on R.C. 2152.83(E), R.C. 2152.84(D) and R.C. 2152.85(F). The State asserts the juvenile court maintains jurisdiction to periodically review the classification during the duration of the juvenile's registration period that is based on these provisions. R.B. agrees that in some situations, the juvenile court maintains jurisdiction to review these classification orders after a child's 21st birthday under R.C. 2152.85. However, R.C. 2152.83(E) does not save and cure all procedural errors. Ability to extend the order beyond age 21 does not translate into authority. In

order for R.C. 2152.83(E) to apply and for the juvenile court to have continuing jurisdiction, there *must* be a *valid* classification order, including an initial classification and a classification after the completion of disposition hearing. R.C. 2152.83 and .84.

Moreover, R.C. 2152.83(E), R.C. 2152.84(D) and R.C. 2152.85(F) only refer to the extension of *orders* within the juvenile court and not the court's *jurisdiction*. This is logical given that typically, dispositions and other sanctions set forth by the juvenile court terminate, at the very latest, upon the child's attainment of age 21. *See e.g.* R.C. 2152.22(A). The purpose of R.C. 2152.83(E) is to extend the registration period imposed by the juvenile court beyond the juvenile's attainment of the age of 18 or 21. *In re D.S.*, 2016-Ohio-1027 at ¶ 27. The only intention evidenced in R.C. 2152.83(E) is to allow validly issued classification orders to continue outside of the general rule that dispositional orders terminate at age 21.

What R.C. 2152.83(E) fails to provide is *jurisdiction*. R.C. 2152.83(E) in no way speaks to the juvenile court's jurisdiction to hold initial and completion of disposition hearings. Had the legislature wanted to provide jurisdiction in that manner, it would have said so. It did not.

Furthermore, R.C. 2152.83(E) makes clear that the initial classification order is subject to the provisions of R.C. 2152.84. Accordingly, even if the initial classification order is extended, it is still tempered and subject to the requirements in R.C. 2152.84. Finally, although R.C. 2152.85 permits the juvenile to *submit* himself or herself to the jurisdiction of the court to petition for removal from the registry after the completion of disposition, this is quite different from R.C. 2152.83 and R.C. 2152.84 which evidenced a mandatory duty upon the juvenile court.

In order for R.C. 2152.83(E), R.C. 2152.84(D), R.C. 2152.85(F) to control and continue the sanction past the age of 21, the juvenile court must have completed the steps as required by R.C. 2152.83 *and* R.C. 2152.84 for issuing this penalty at a time when it had jurisdiction.

**C. The juvenile court lacked jurisdiction to conduct a completion of disposition hearing under R.C. 2152.84 and issue a classification order requiring R.B. to register.**

It is clear the legislature intended some juvenile sex offender classification orders to exist beyond the juvenile court's traditional jurisdiction. However, in order for the classification order to extend for the period of time outlined in R.C. 2950.07, the juvenile court must issue a classification order at the time provided within the juvenile sex offender scheme and at a time in which it has jurisdiction over the child and the delinquency case.

**1. The juvenile court lacked jurisdiction as R.B. was 21 and no longer a child at the time it issued the classification order on October 30, 2017.**

Here, the juvenile court had original exclusive jurisdiction over R.B.'s case as he was alleged to be delinquent. *See* R.C. 2152.23(A)(1); (S-16). He was adjudicated at age 14, and therefore R.C. 2152.02(C)(6) dictated that he was considered a "child" until he reached age 21. R.B. turned 21 on July 20, 2017. (S-16) On July 20, 2017, R.B. was no longer considered a "child" within the meaning of R.C. 2152.02(C)(6), and the juvenile court's subject-matter lapsed on that same day. The juvenile court did not journalize the order classifying him as a Tier I juvenile sex offender registrant under R.C. 2152.84 until October 30, 2017, three months after he had turned 21. (A-13, 15). The juvenile court lacked subject matter jurisdiction to classify R.B.

**2. The juvenile court lacked jurisdiction to classify R.B. on October 30, 2017, as the court's jurisdiction over the case had already been terminated.**

The First District concluded "R.B.'s disposition was commitment to DYS until age 21, although that commitment was suspended. R.B. turned 21 on July 20, 2017. At that time, his disposition, by its own terms, was completed." (A-4, ¶ 14). R.B. agrees that at the absolute latest, his disposition terminated on, July 20, 2017, his twenty-first birthday.<sup>10</sup> *See* R.C. 2152.22(A)

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<sup>10</sup> July 20, 2017, would have been the absolute latest R.B.'s dispositions would have been terminated. Yet, as argued below, R.B.'s disposition, and thus the juvenile court's jurisdiction, terminated well before that time; specifically, on July 29, 2013. *See infra* p. 26-30.



(stating generally that dispositions continue until the child attains 21 years of age); *see also* R.C. 2152.02(C)(2). As a result, in accordance with the decisions in *In re Cross* and *In re J.F.*, R.B. agrees that certainly the juvenile court’s jurisdiction over him would have lapsed on that day, as would have any remaining dispositions, if valid, terminated at that time. 2002-Ohio-4183 at ¶ 28; 2009-Ohio-318 at ¶ 13. Yet, the juvenile court waited over three months after the termination of the disposition and its jurisdiction to enter the classification order on October 30, 2017.<sup>11</sup> Accordingly, the juvenile court certainly lacked jurisdiction to enter a classification order on October 30, 2017 when it no longer had jurisdiction over the delinquency case. Juv.R. 40.

**3. Juvenile court lacked jurisdiction to issue classification order for R.B. on October 30, 2017 as it failed to follow the timing requirements of R.C. 2152.84.**

As set forth above, “upon completion of disposition” means the hearing must occur at the time the child completes their disposition. *See supra* p. 19-20. The record before this Court illustrates a complete disregard for any of the procedural rules and requirements by the juvenile court. Regardless of when it is determined R.B. completed his disposition, the juvenile court failed to comply with the timing requirement of R.C. 2152.84. Therefore, the court was without jurisdiction or authority to issue a classification order under R.C. 2152.84.

**a. R.B.’s disposition terminated with probation and the R.C. 2152.84 hearing should have been held on July 29, 2013.**

While the juvenile court certainly lacked jurisdiction to enter the October 30, 2017 order, R.B. contends the juvenile court’s jurisdiction lapsed well before his twenty-first birthday on July 20, 2017. Specifically, R.B.’s disposition terminated on July 29, 2013, when the juvenile court terminated him from probation.

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<sup>11</sup> Although the magistrate entered a decision continuing the classification on July 13 and 14, 2017, days before R.B.’s birthday; the juvenile court judge took no action to adopt this decision. Juv.R. 40 (D)(4)(a) makes clear that magistrate’s decisions are not effective unless adopted by the court, and Juv.R. 40(D)(3)(a)(iii) requires the court to enter its own judgment in ruling on the objections. Accordingly, the order continuing the classification was not entered until October 30, 2017.

The First District failed to address R.B.'s claims as to when his disposition in juvenile court ended. Discerning R.B.'s disposition is complicated by the fact that the Hamilton County Juvenile Court still uses the term "probation" even though the rubric of probation was replaced by the General Assembly in 2002 in favor of "community control." *See In re J.F.*, 121 Ohio St.3d 76, 2009-Ohio-318, 902 N.E.2d 19, ¶ 9, 11. A court only speaks through its entry. *In re A.W.*, Slip Opinion No. 2020-Ohio-1457, ¶ 8. R.B. was not placed on community control. The dispositional order on December 2, 2011 ordered R.B. to complete: (1) the residential program at Altercrest; (2) all aftercare requirements of the Altercrest program; and (3) probation supervision. (S-4, 7). R.B. was also committed to the Department of Youth Services (DYS), which was suspended. (S-6).

R.B.'s placement at Altercrest, and the court's care custody, and control over R.B. was terminated on February 6, 2013. (S-12). On February 7, 2013, it was noted that R.B. had successfully completed the placement requirements. (S-13). The court also terminated its "prior care, custody, and control" of R.B.; yet he remained on probation. On March 7, 2013, R.B. was successfully released from electronic monitoring. As set forth in probation's termination report, R.B. had successfully completed all orders of the court and had not violated any laws, as he "had no other charges." (S-1) And on July 29, 2013, R.B.'s probation was terminated. (S-14, 15) Accordingly, as of July 29, 2013, each of the terms of his disposition ordered on December 2, 2011 for the sexually-oriented offenses were complete as of July 29, 2013. A R.C. 2152.84 hearing was therefore triggered and should have been held on that day.

The record reveals that prior to July 29, 2013, the juvenile court received probation's recommendation for termination from probation. (S-1). This document provided R.B.'s treatment and his success in treatment. At this time, R.B. was still under probation's supervision. The

juvenile court therefore could have issued notice to R.B. and his parent that it was going to set his case for a completion of disposition hearing. The juvenile court could have also ordered R.B. to participate in a risk assessment. The juvenile court had before it all the information it needed to conduct the R.C. 2152.84 hearing. The juvenile court was statutorily required to hold a hearing to determine whether R.B.’s prior classification should continue. R.C. 2152.84(A). The juvenile court did not do that. Rather, it was not until 46 months later, on May 8, 2017, that the juvenile court held the completion of disposition hearing. This is simply not permitted under R.C. 2152.84. That statute clearly provides that the hearing must occur “upon completion of disposition” not afterwards and certainly not *years* after the disposition is complete. *See Jean-Baptiste*, 2012-Ohio-5697 at ¶ 30.

By failing to conduct the hearing at the time required by R.C. 2152.84, the subsequent order was issued without jurisdiction and the First District properly vacated the classification.

**b. Contrary to the juvenile court’s findings, the suspended commitment and monitored time did not extend the court’s jurisdiction.**

The First District found “R.B.’s disposition was commitment to DYS until age 21.” *In re R.B.* at ¶ 14. The juvenile court similarly found the order of “non-reporting probation with monitored time” extended R.B.’s disposition and the court’s jurisdiction to issue an order under R.C. 2152.84. (A-19 – A-24); *see also* (S-14, 15). These dispositional orders did not extend the court’s jurisdiction beyond July 29, 2013, as the orders were invalid.

First, a suspended commitment, alone, is not a valid dispositional order. Even if it was a stand-alone disposition, the juvenile court judge only has authority to issue the minimum commitment. *See* R.C. 2152.19; R.C. 2152.16, R.C. 5139.06. Further, “[t]here is no . . . statutory authority that allows a juvenile court to suspend a DYS commitment outside of probation.” *In re*

*Cross*, 96 Ohio St.3d 328, ¶ 27. Once the court terminated R.B.’s probation, the suspended commitment also terminated. *Id.* Therefore, the commitment was not valid after July 29, 2013.

The juvenile court also found the order of “non-reporting probation with monitored time” extended R.B.’s disposition and the court’s jurisdiction. (S-14, 15). However, monitored time was not initially imposed at disposition. (S-4-7). *In re J.F.*, 121 Ohio St.3d 76, 2009-Ohio-318, ¶ 18-20, this Court held the juvenile court still maintained jurisdiction over the suspended commitment because there was an outstanding order of community control, including monitored time. Unlike in *In re J.F.*, monitored time was not originally imposed at the time of disposition. (S-4-7). Here, as outlined above, each of the elements of the dispositional order were completed and terminated once probation was terminated. *See supra* p. 27.

Moreover, as monitored time was not originally imposed, it represented a new dispositional order. The juvenile court was required to follow the statutory rules for imposing disposition. The court did not invoke its continuing jurisdiction as required by Juv.R. 35. The juvenile court also did not have a hearing. Pursuant to Juv.R. 27(A) and Juv.R. 34(J), youth have a right to be present at disposition. R.C. 2151.352 requires the presence of counsel. Further, as R.B. was not notified that the court was modifying his disposition, his due process rights to notice and an opportunity to be heard were thwarted. On these facts, monitored time simply cannot be construed as an order which extended R.B.’s disposition or the court’s jurisdiction.

Based on the foregoing, the order of monitored time and suspended commitment were not valid dispositional orders and did not provide the juvenile court with continuing jurisdiction.

**c. May 8, 2017 hearing was untimely.**

Even if this Court accepts the juvenile court’s conclusion that R.B.’s disposition included the suspended commitment and monitored time, the May 8, 2017 hearing was still untimely.

Assuming *arguendo* that the disposition included a suspended commitment with monitored time, R.B.'s disposition was not "complete" until he turned 21 or those orders were terminated. The juvenile court took no steps to terminate those orders. R.B.'s 21st birthday was not until July 20, 2017. (S-16). Accordingly, at the time of the completion of disposition hearing on May 8, 2017, R.B. would have still been under those dispositional orders. R.B. had not yet completed his disposition. R.C. 2152.84 permits the juvenile court to conduct the hearing "upon the completion of disposition" not *before* it. *State ex rel. Jean Baptiste*, 134 Ohio St.3d 421, 2012-Ohio-5697, ¶ 28. Because the court failed to comply with the requirements of R.C. 2152.84, the juvenile court thus lacked jurisdiction to conduct the hearing at that time.

Regardless of whether the Court accepts the juvenile court's characterization of his disposition or R.B.'s, the result is still the same: the juvenile court did not comply with the timing requirements of R.C. 2152.84.

In order for the juvenile court to have been vested with jurisdiction under R.C. 2151.23(A)(15), the hearing had to have occurred at the time of the completion of disposition. The juvenile court simply did not have subject matter jurisdiction to conduct the hearing on May 8, 2017, or issue the classification order on October 30, 2017.<sup>12</sup> The juvenile court lacked jurisdiction to impose continued registration after R.B. completed his disposition, turned 21 years of age, and where the juvenile court acted outside the statutory timeframe provided in R.C. 2152.84. The First District's decision vacating the classification must be affirmed.

R.B. respectfully requests this Court to reject the State's proposition.

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<sup>12</sup> As noted by the First District, the R.C. 2152.83 classification is not revived or still in effect after the failure to comply with R.C. 2152.84. (A-11 at ¶ 14). R.C. 2152.83 is only valid during the dispositional period and is subject to modification, termination, and continuation by way of R.C. 2152.84. *See supra* p. 14-16. The juvenile court *must* act pursuant to R.C. 2152.84 to continue the classification. It does not occur automatically. If it did, that process would violate the precedent in *In re C.P.*, 131 Ohio St.3d 513, 2012-Ohio-1446, 967 N.E.2d 729.

## ARGUMENT IN SUPPORT OF CROSS-APPELLANT'S PROPOSITION OF LAW

### INTRODUCTION

Juvenile justice is all about second chances—holding children accountable and supporting them in ways that help them grow into responsible, law-abiding adults. It is not meant to saddle a child with punishment and sanctions when such sanctions are no longer necessary.

Registration is a penalty. *In re C.P.*, 131 Ohio St.3d 513, 2012-Ohio-1446, 967 N.E.2d 729, ¶ 11, citing *State v. Williams*, 129 Ohio St.3d 344, 2011-Ohio-3374, 952 N.E.2d 1108, ¶ 16; *see also State v. Dangler*, Slip. No. 2020-Ohio-2765. With this in mind, the legislature chose to balance this penalty for Ohio's youth with rehabilitation by putting into place mandatory checks on classification and the resulting duty to register. The statutory scheme enacted under R.C. 2152.83 and R.C. 2152.84 reflect this intention and work in tandem. While R.C. 2152.83(B) authorizes the imposition of the classification initially, the penalty does not simply continue automatically. This is because “automatic classification ‘undercuts the rehabilitative purpose of Ohio's juvenile system’” and eliminates discretion. *In re C.P.* at ¶ 85.

Rather, classification is subject to a statutorily prescribed review to determine whether the penalty remains necessary. R.C. 2152.84. The penalty is only to remain for those youth whose treatment was not effective and remain at a risk to sexually re-offend. It was this procedural safeguard which rendered the juvenile sex offender classification scheme constitutional. *In re D.S.*, 146 OhioSt.3d 1184, 2016-Ohio-1027, ¶ 35 (finding there are “sufficient procedural protections to satisfy the due-process requirement of fundamental fairness”).

Consequently, in order to comply with the due-process requirement of fundamental fairness, the procedural safeguards built within the juvenile sex offender scheme must be followed. R.B. contends, at a minimum, R.C. 2152.84 was not complied with, and therefore his

classification order issued on October 30, 2017, violated the specific procedure that was due to him under R.C. 2152.84.

Even if this Court were to find the juvenile court properly extended R.B.'s disposition beyond July 29, 2013 and consequently also properly extended the time for his completion of disposition hearing under R.C. 2152.84, the juvenile court did not comply with due process or the requirement for fundamental fairness by waiting 46 months from the time in which R.B. completed treatment to review the effectiveness of such treatment. The extension of R.B.'s disposition after he completed treatment unreasonably delayed his opportunity for removal under R.C. 2152.84. This delay prejudiced him. It hindered the court's ability to effectively review his treatment. Moreover, the delay in reviewing whether R.B. responded to rehabilitation actually impinged upon his rehabilitation. Finally, the delay in holding the hearing under R.C. 2152.84 also resulted in R.B. losing an opportunity to seek removal from the registry. This result simply cannot be reconciled with the rehabilitative purpose of juvenile court.

R.B. requests this Court to adopt his third proposition of law.

**Cross-Appellant Proposition of Law 3: To comply with fundamental fairness and a youth's due process rights in conducting a completion of disposition hearing, the juvenile court must conduct the hearing at the time the child completes his treatment. See *In re D.S.*, 146 Ohio St.3d 182, 2016-Ohio-1027; Fourteenth Amendment to the U.S. Constitution; Section 16, Article I of Ohio Constitution.**

The Due Process Clause of the Fourteenth Amendment provides: "[N]or shall any State deprive any person of life, liberty, or property, without due process of law." Ohio's Due Course of Law Clause in Article I, Section 16 has been equated with the Due Process Clause of the Fourteenth Amendment to the United States Constitution. See *Adler v. Whitbeck*, 44 Ohio St. 539, 569, 9 N.E. 672 (1887). These provisions have been interpreted to include both a substantive and procedural component.

Procedural due process refers to the procedures the government must follow before it deprives a person of life, liberty, or property. The Due Process Clause forbids arbitrary deprivations of liberty. *Goss v. Lopez*, 419 U.S. 565, 95 S.Ct. 729, 42 L.Ed.2d 725 (1975). A person's reputation has been recognized as a liberty interest under the Due Process Clause. *Wisconsin v. Constantineau*, 400 U.S. 433, 437, 91 S.Ct. 507, 27 L.Ed.2d 51 (1971); *Goss* at 565. Moreover, Article I, Section 16 of the Ohio Constitution expressly protects the right to reputation. As outlined by the Amici, Ohio Public Defender, et. al ("OPD Amici") in this case, the label "sex offender" perpetuates several myths and assumptions which affect many aspects of a person's life. (Amici Brief at 18-20). The sex offender label certainly affects one's reputation.

Because it is clear due process applies here, the question becomes what process is due. *Goss* at 577. R.B. submits, at a minimum, the process set forth in the statute is required. Non-compliance with the statutory timing automatically renders the classification in violation of fundamental fairness and due process. *See In re D.S.* at ¶ 35. Even if compliance with R.C. 2152.84 is found in this case, the traditional balancing test for procedural due process rights demonstrates that the process that is due is a meaningful hearing. Delaying the R.C. 2152.84 hearing cannot be reconciled with the rehabilitative purpose of juvenile court and destroys the procedural protections provided by the statute. Therefore, this delay violates the due process requirement of fundamental fairness.

The purpose of R.C. 2152.84 is to remove barriers posed by registration for those who have been rehabilitated of these types of offenses. The juvenile's right to this hearing and to restoration of their privacy and reputation cannot be thwarted by the juvenile court without consequences. R.B. requests this Court adopt his third proposition of law.

- 1. Juvenile court failed to provide R.B. with the process due to him under R.C. 2152.84, as the juvenile court did not comply with the statute.**



From this Court’s decision in *In re D.S.*, it is clear a juvenile may be required to register for offenses committed as a child even after the child completes their disposition because (1) the imposition of the penalty lends itself to the discretion of the juvenile court, and (2) even if the penalty is imposed, the juvenile court, through the statutorily prescribed review under R.C. 2152.84, will determine whether classification should be modified, terminated, or continued. *In re D.S.* at ¶ 33, 35, 37. Further, even if classification is continued “after the completion of disposition,” the classification may be reviewed for purposes of termination or modification. *See* R.C. 2152.85. It was the required procedure built into the statutory scheme which rendered R.C. 2152.82 – R.C. 2152.85 constitutional and comported with the special role of juvenile courts.

Once a state provides statutory rights greater than those afforded by the United States Constitution, the Constitution prohibits the state from divesting citizens of those rights without due process. *Connecticut Bd. of Pardons v. Dumschat*, 452 U.S. 458, 463, 101 S.Ct. 2460, 69 L.Ed.2d 158 (1981). Accordingly, as a result of adopting R.C. 2152.84, children have a vested right in that hearing and the procedural due process protections that come with it.

Here, the juvenile court did not comply with the statutory requirements of R.C. 2152.84. Specifically, the juvenile court failed to hold a hearing “upon the completion of disposition.”<sup>13</sup> R.B.’s disposition on the sexually oriented offense was issued on December 2, 2011. (S-4-7). R.B. was placed on probation and “ordered to attend and complete the residential program at Altercrest as a condition of probation and to follow all rules and regulations of the placement facility and to adhere to all aftercare requirements.” (*Id.*). The court also committed R.B. to the DYS, but suspended that commitment. (S-6-8). There was no mention of community control or monitored time. *Id.*

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<sup>13</sup> This argument is also fully discussed in response to the State’s proposition of law. *See supra* p. 26-30.

As set forth in probation's termination report, R.B. successfully completed all orders of the court and had not violated any laws, as he "had no other charges." (S-1; S-16-28). On July 29, 2013, R.B.'s probation was terminated. (S-14, 15). Accordingly, as of July 29, 2013, R.B. completed his disposition for the sexually-oriented offense. R.B. had a vested right to a completion of disposition hearing at that time.

Upon receiving probation's recommendation for termination from probation, the juvenile court was statutorily required to set R.B.'s case for a completion of disposition hearing and determine whether R.B.'s prior classification should continue. The juvenile court did not do that. Rather, it was not until 46 months later, on May 8, 2017 that the completion of disposition hearing was held. This is simply not permitted under R.C. 2152.84. That statute clearly provides that the hearing must occur "upon completion of disposition," not afterwards, and certainly not *years* after disposition is complete.

As this Court noted in *Aalim*, with respect to bindovers, the "safeguard of a hearing is contained in the Revised Code \* \* \* and is grounded in due process and other constitutional protections." *State v. Aalim*, 150 Ohio St.3d 489, 2017-Ohio-2956, 83 N.E.3d 883, ¶ 24, citing *State v. D.W.*, 133 Ohio St.3d 434, 2012-Ohio-4544, 978 N.E.2d 894, ¶ 20. Similarly, the safeguard of a hearing is contained in R.C. 2152.84 and is grounded in due process. Accordingly, because the juvenile court failed to comply with the statutory requirements under R.C. 2152.84 for holding a completion of disposition hearing, the resulting classification violated R.B.'s right to due process and fundamental fairness.

**2. Traditional balancing test for Procedural Due Process reveals R.B.'s rights were violated.**

To satisfy the requirements of procedural due process, the means employed by the state must have a real and substantial relation to the object to be obtained, and its methods must not be

unreasonable, arbitrary, or capricious. *Nebbia v. New York*, 291 U.S. 502, 525, 54 S.Ct. 505, 78 L.Ed. 940 (1934); see *Mominee v. Scherbarth*, 28 Ohio St.3d 270, 274, 503 N.E.2d 717 (1986). Because the requirements of due process are “flexible” and only call for the procedural protections as demanded by the situation, courts apply the framework established in *Mathews v. Eldridge*, 424 U.S. 319, 335, 96 S.Ct. 893, 903, 47 L.Ed.2d 18 (1976) to determine the constitutionality of the process used. Specifically, three factors must be considered:

First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.

In the instant matter, even if this Court finds there was technical compliance with the juvenile court’s mandatory duty under R.C. 2152.84, R.B. submits, as applied to him, the process violated his procedural due process rights. The traditional balancing test demonstrates that the process due to him under R.C. 2152.84 is a meaningful hearing, which occurs at the completion of treatment. This standard weighs in favor of adopting his third proposition of law.

**a. Competing Rights: A juvenile’s right to privacy, their reputation, and the right to the restoration of these rights after rehabilitation versus the state’s interest in protecting the safety of Ohio’s citizens from sex offenders.**

**i. First Factor: R.B.’s interest in removal from the registry is substantial.**

As set forth above, there should be no debate. Youth, such as R.B., have a liberty interest in their reputation, and specifically, a reputation without the label “sex offender.” See *Collins v. Wolfson*, 498 F.2d 1100, 1103 (5th Cir.1974), citing *Board of Regents v. Roth*, 408 U.S. 564, 577-578, 92 S.Ct. 2701, 33 L.Ed.2d 548 (1972). As outlined by OPD Amici, the burdens imposed upon juvenile registrants are staggering. And, as aptly recognized in *In re C.P.*, “few labels are as damaging in today’s society as convicted sex offender.” 2012-Ohio-1446, ¶ 68.

Registration places practical barriers to almost all facets of the person's life, including: employment, education, and housing. (OPD Amici p. 13-16, 18-20). In addition to the practical barriers posed by sex offender registration, a number of studies demonstrate that those on the registry also suffer from severe mental health issues as a result of their placement on the registry. (OPD Amici at p. 12) Moreover, in the context of punishment, the Supreme Court has been clear: children are different and have a fundamental right to be treated as children. *See e.g. Miller v. Alabama*, 567 U.S. 467, 132 S.Ct. 2455, 2464, 183 L.Ed.2d 407 (2012).

Consequently, removal from the registry is of the utmost importance as it removes those stigmas associated with the sex offender label. Moreover, removal from the registry permits juvenile offenders indiscretions to remain in juvenile court. *See* R.C. 2151.356; R.C. 2151.358. It is only by way of the hearing under R.C. 2152.84 that these rights can be and are restored. Based on the foregoing, it is undeniable a juvenile offender has a substantial liberty interest in the opportunity for removal from the registry as provided by R.C. 2152.84.

**ii. Second Factor: State's Interest is to protect public from those at a risk to sexually reoffend.**

The State's interest is determined through its intent in enacting the legislation at issue. *See In re Adoption of H.N.R.*, 145 Ohio St.3d 144, 2015-Ohio-5476, 47 N.E.3d 803, ¶ 27. The General Assembly set forth its intent in R.C. 2950.02. R.C. 2950.02(A)(2) provides: "Sex offenders \* \* \* pose a risk of engaging in further sexually abusive behavior even after being released from imprisonment, a prison term, or other confinement or detention, and protection of members of the public from sex offenders and child-victim offenders is a paramount governmental interest." This subsection further provides, "[i]f the public is provided adequate notice and information about offenders and delinquent children who commit sexually oriented offenses \* \* \* members of the public and communities can develop constructive plans to prepare

themselves and their children for the offender's or delinquent child's release." R.C. 2950.02(A)(1). As laid out in R.C. 2950.02(A)(2), placement on the registry expressly indicates to the public that the offender poses a risk to re-offend. *See* R.C. 2950.02(A)(2). Indeed, the common view of registered sexual offenders is that they are particularly dangerous and more likely to reoffend than other criminals. (OPD Amici p. 12). By enacting R.C. 2152.84, the legislature recognized it is only those children, who after receiving juvenile court intervention and treatment, remain a risk to re-offend, that should remain on the registry.

In the context of juveniles, such as R.B., who have completed treatment and are released from the supervision of juvenile court, prolonging the R.C. 2152.84 hearing and the resulting classification order (or declassification order) does not serve the interests articulated by the legislature. First, delaying the hearing fails to properly warn the public of those who truly "pose a risk of engaging in further sexually abusive behavior." R.C. 2950.02. Delayed hearings under R.C. 2152.84 increase the risk that some juveniles will be required to register for a period of time when they no longer pose a risk; therefore, the intent of the statute is not met in that instance. Second, delaying the hearing provides uncertainty for the juvenile child and actually impedes the rehabilitative process.

The research highlights these concerns. While continued registration presumes the person poses a high risk of recidivating, this conclusion fails generally as it relates to juveniles and is even more remote for those youth who have successfully completed their treatment. Research indicates that those who commit sex offenses as a child rarely recidivate. In fact, approximately 97% of all youth never re-offend sexually. (OPD Amici p.14); Prof. Def. Ex. 30. Furthermore, studies show that many of those who commit sexual offenses as juveniles do so as a result of impulsivity and sexual curiosity. *Compare Miller v. Alabama*, 567 U.S. 467, 132 S.Ct. 2455,

2464, 183 L.Ed.2d 407 (2012). Consequently, impulsivity and sexual curiosity naturally diminish through general maturation, education, and treatment. (Prof. Def. Ex. 32). (OPD Amici p. 14-15). Finally, research establishes that providing evidence-based treatment reduces the likelihood for future offending; registration does not. (Prof. Def. Ex. 31); *see also* Elizabeth J. Letourneau et al., *The Influence of Sex Offender Registration on Juvenile Sexual Recidivism*, 20 Crim. Just. Pol’y Rev. 136 (2009). What registration actually does is impede the rehabilitative process. (OPD Amici p. 6-7, 16-20). Based on the foregoing, the purpose of the statute can only be met if the offender poses a risk to engage further in sexually-abusive behavior. The State’s interest found in R.C. 2950.02 and R.C. 2152.84 are not met by the juvenile court delaying the hearing.

**b. There is a high risk of erroneous deprivation of juvenile’s interest in reputation restoration as well as a risk that the State’s interest will also not be served when juvenile courts wait to hold completion of disposition hearing.**

Based on these competing interests, the second issue is whether delaying the completion of disposition hearing might arbitrarily deprive R.B. of his interest in the opportunity for removal. Here, the undisputed facts demonstrate R.B. was indeed arbitrarily deprived of his interest in the hearing and opportunity for removal from the registry.

Here, R.B.’s ability to be removed from the registry hinged on this hearing. Not only is the R.C. 2152.84 hearing the first opportunity for removal, but it also sets up the timing for any subsequent requests for removal under R.C. 2152.85. The purpose of this hearing is to review the effectiveness of the disposition and any treatment provided, and to determine the risk that the child might re-offend. *See* R.C. 2152.84(A). *In re D.S.*, 2016-Ohio-1027 at ¶ 35. The risk of erroneous continuation of the classification is substantial when the court delays holding the completion of disposition hearing. Such a delay renders the treatment information stale and affects the presentation of the evidence. This hearing must therefore be timely.

In terminating R.B. from “official probation” on July 29, 2013, the juvenile court clearly reviewed R.B.’s treatment. (S-1). Accordingly, it was simply unreasonable and arbitrary for the juvenile court to not also consider his placement on the registry at that time. Rather, the juvenile court waited approximately 46 months before it conducted a hearing under R.C. 2152.84. The arbitrariness of the decision is further illuminated by the fact that after the court terminated his “official probation,” it had no further contact with R.B. As confirmed by the probation officer supervisor for R.B., not only did probation not actively supervise after this time, but there was not even a process in place in which the juvenile court was monitoring R.B. for compliance with monitored time. (S-49). In fact, the probation officer testified she was unsure what requirements R.B. would have had to follow under “monitored time.” (S-50,51). Finally, the juvenile court’s actions were unreasonable where as it failed to notify R.B. of this extension of his disposition. (S-18).

The delay in holding the hearing also prejudiced R.B. in that he lost an opportunity for removal as a result of the juvenile court’s delay. Between July 29, 2013 when he completed treatment and the court’s holding of the hearing in May 2017, R.B. could have received two separate opportunities for removal. Specifically, R.B. was entitled to a review of his classification status on July 29, 2013. Had the Court not removed him at that time, he would have been able to petition for removal under R.C. 2152.85 three years later on July 29, 2016.

**c. State’s ability to hold a hearing after treatment is logical statutorily provided.**

The final factor considers the government’s interest, including the function involved, the fiscal and administrative burden that the substitute procedural requirement would entail. *Matthews* at 334. “All that is necessary is that the procedures be tailored, in light of the decision to be made, to “the capacities and circumstances of those who are to be heard,” to insure that

they are given a meaningful opportunity to present their case.” *Matthews* at 334, quoting *Goldberg v. Kelly*, 397 U.S. 254, 268-269, 90 S.Ct. 1011, 25 L.Ed.2d 287 (1970).

Here, again, R.B. is not necessarily advocating for a substitute procedure. In fact, the structure is already set up for this process. R.C. 2152.84 already requires the juvenile court to conduct a mandatory review of the effectiveness of the child’s disposition and the treatment provided for the sexually oriented offense. R.B. is asking this court to find, as applied to him, the juvenile court unreasonably extended his disposition without notice and without procedure, which in turned delayed his completion of disposition hearing. This is not what was intended by the legislature.

The hearing under R.C. 2152.84 must have occurred at the completion of his treatment, which was in fact his true completion of disposition, and not afterwards, and certainly not years after. Ensuring compliance with the legislature’s intent would only stand to benefit the state. It is quite costly for the state to track individuals on the registry. Registration of youth costs governments as much as \$3 billion a year. Richard B. Belzer, Street Institute Policy Study No. 41: *The Costs and Benefits of Subjecting Juveniles to Sex-Offender Registration and Notification* (2015). Accordingly, registration should only be imposed upon those where the penalty is necessary.

On this record, it is clear, R.B.’s right to due process under the law was violated.

### **3. Fundamental fairness requires a timely R.C. 2152.84 hearing.**

Due process rights are applicable to juveniles through the Due Process Clause of the Fourteenth Amendment to the United States Constitution and Article I, Section 16 of the Ohio Constitution. *In re C.S.*, 115 Ohio St.3d 267, 2007-Ohio-4919, 874 N.E.2d 1177, ¶ 79, citing *In re Gault*, 387 U.S. 1, 41, 87 S.Ct. 1428, 18 L.Ed.2d 527 (1967). This Court has observed that in



the context of juvenile proceedings, “due process” expresses the requirement of “fundamental fairness.” *See In re C.S.*, 115 Ohio St.3d 267, 2007-Ohio-4919, 874 N.E.2d 1177, ¶ 80 (2007), *In re C.P.*, 131 Ohio St.3d 513, 2012-Ohio-1446, 967 N.E.2d 729, ¶ 71; *In re D.H.*, 120 Ohio St.3d 540, 2009-Ohio-9, 901 N.E.2d 209. The definition of “fundamental fairness” is not exact. Rather, the court’s task is to ascertain what process is due in a given case to ensure orderliness and fairness. *In re C.S.* at ¶ 81; *Aalim* at ¶ 23; *State v. D.H.*, 120 Ohio St.3d 540, 2009-Ohio-9, 901 N.E.2d 209, ¶ 59. In making this determination, this Court considers any relevant precedents and the interests at stake.

**a. Juvenile courts occupy special status which emphasizes treatment.**

The juvenile courts “occupy a unique place in our legal system.” *In re C.S.*, 115 Ohio St.3d 267, 2007-Ohio-4919, 874 N.E.2d 1177, ¶ 65. “Since its origin, the juvenile justice system has emphasized individual assessment, the best interest of the child, treatment, and rehabilitation, with a goal of reintegrating juveniles back into society.” *State v. Hanning*, 89 Ohio St.3d 86, 88, 728 N.E.2d 1059 (2000). While juveniles are afforded special status within the juvenile system, this Court has made clear that this special status does not vitiate the need for procedural protections. *See In re C.S.* at 70, quoting *Kent v. United States*, 383 U.S. 541, 556, 86 S.Ct. 1045, 16 L.E.2d 84 (1966). In fact, this Court has extended a number of constitutional safeguards to juvenile delinquency proceedings. *State v. Walls*, 96 Ohio St.3d 437, 2002-Ohio-5059, 775 N.E.2d 829, ¶ 26. For example, juveniles have a right to counsel, *In re Agler*, 19 Ohio St.2d 70, 249 N.E.2d 808 (1969), paragraph one of the syllabus; a Fifth Amendment right to protection from self-incrimination, *In re D.S.*, 111 Ohio St.3d 361, 2006-Ohio-5851, 856 N.E.2d 921, ¶ 1; and a right to full double-jeopardy protections under the Ohio Constitution. *In re A.G.*, 148 Ohio St.3d 118, 2016-Ohio-3306, 69 N.E.3d 646, ¶ 11–12.

**b. Juveniles are entitled to fundamental fairness.**

In recent years, this Court has considered a number of inquiries as to what is considered “fundamental fairness” related to juveniles. For instance, “fundamental fairness” requires the assistance of counsel. *In re C.S.* at ¶ 82. Yet, because of the central role of a juvenile judge in a juvenile’s rehabilitative process, fundamental fairness does not require a jury, rather than a judge to consider certain statutory facts to impose a blended sentence. *In re D.H.*, 120 Ohio St.3d 540, 2009-Ohio-9, 901 N.E.2d 209, ¶ 61.

This Court has also considered the meaning of “fundamental fairness” in the context of juvenile sex offender classifications. In *In re C.P.*, this Court found the automatic, lifelong registration and notification requirements on juvenile sex offenders tried within the juvenile system violates fundamental fairness and due process. *In re C.P.*, 131 Ohio St.3d 513, 2012-Ohio-1446, 967 N.E.2d 729, ¶ 71. Of particular importance to this case, this Court explained that fundamental fairness may require additional procedural protections for juveniles:

[F]undamental fairness is not a one-way street that allows only for an easing of due process requirements for juveniles; instead, fundamental fairness may require, as it does in this case, additional procedural safeguards for juveniles in order to meet \* \* \* the juvenile system’s goals of rehabilitation and reintegration into society. *Id.* at ¶ 85.

In 2016, this Court considered whether it was a violation of children’s due process rights for the punishment of registration to be continued into adulthood. *In re D.S.*, 146 Ohio St.3d 182, 2016-Ohio-1027, 54 N.E.3d 1184. This Court reviewed the full statutory scheme, including R.C. 2152.83, R.C. 2152.84, and R.C. 2152.85, and concluded that a youth’s due process rights were not violated. In reaching this conclusion, this Court found significant that pursuant to R.C. 2152.84, the statutory scheme required the juvenile court to determine whether the classification status remained necessary, or whether the rehabilitative efforts had been met when the child

completed their disposition. *In re D.S.* at ¶ 35. (“Under R.C. 2152.84(A)(1), when a child is classified as a juvenile-offender registrant before the completion of disposition for the sexually oriented offense, the juvenile court judge ‘shall conduct a hearing’ upon the completion of the child’s disposition ‘to determine whether the prior classification of the child as a juvenile offender registrant should be continued or terminated’ or modified”).

From this Court’s decision in *In re D.S.*, it is clear this Court found that a juvenile may be required to register, even after the child completes their disposition; if the penalty continues, the juvenile court has determined that its rehabilitation efforts were unsuccessful, and thus the penalty is still necessary. *In re D.S.* at ¶ 33, 35, 37. The purpose of the statutorily prescribed hearing is for the juvenile court to determine whether the juvenile has responded to the court’s ordered rehabilitative efforts or whether he remains a threat to society. *Id.* at ¶ 34. The decision in *D.S.* failed to address the issue present here: even if the court conducts the mandated review under R.C. 2152.84, can the court violate a child’s due process rights by failing to hold the hearing in a timely manner? The answer to that question is yes.

Here, the juvenile court waited too long to make the determination required by R.C. 2152.84. Consequently, the hearing was no longer meaningful. The delay interfered with R.B.’s ability to present evidence, and therefore, the judge was not a well-informed fact-finder. The delay also prejudiced R.B., as he lost multiple chances for removal. Finally, the delay eviscerated the rehabilitative nature of this hearing. For the foregoing reasons, as R.B. completed treatment and was released from juvenile court supervision, prolonging the R.C. 2152.84 hearing violates the due process requirement of fundamental fairness.

**c. The purpose of R.C. 2152.84 is meant to provide meaningful review.**

Timing is of the utmost importance within the juvenile system. The subject of these classifications orders are children. As seen in the record, as to R.B., the adults in his life had simply not provided him the tools to deal with the stressors of life. (Def. Ex. 13). This is where juvenile court's treatment was to step in. Children are constantly developing and growing. As a result, timeliness is of great significance within the juvenile system.

The juvenile court permitted R.B. to complete treatment and terminated the court's supervision over him on July 29, 2013. At that time, the court even reviewed his success in treatment. (S-1, S-14-15). Yet, the court failed to address or review his classification at that time. The juvenile court should inquire as to effectiveness of the treatment when the child completes such treatment. R.C. 2152.84 requires the juvenile court to inquire into a number of factors. For instance, the juvenile court must consider the results of treatment and any follow up assessments. *See* R.C. 2152.84(A)(1). Yet, due to the juvenile court's delay, evidence as to his treatment was stale and unavailable. For instance, several service providers were unwilling to testify as to his treatment or progress, as it had been 4 years since he was seen. (S-14, 15). Further, other service providers were unable to be reached, including: Valerie Kulhavik, R.B.'s probation officer; Jimmy Morecco, R.B.'s Therapist at Child Focus; and various other providers at Altercrest. (S-53-77). Had the hearing been held in 2013, these same obstacles would not have been present. At the very minimum, R.B. demonstrated that he could have presented testimony from Ms. Mauser and Ms. Baker if the hearing would have been timely. (S-38-40). .

As the State agrees in its brief, "the timing of the "upon completion of disposition" review hearing can only be \* \* \* at such time that the juvenile court can reasonably give consideration to how the juvenile responded to all aspects of the imposed disposition and adequately assess future risk." (Appellant's Brief p. 17). That time is when the juvenile

completes treatment. The juvenile court should not be permitted to unreasonably extend a child's "disposition," without notice and when such extension provides no benefit or aids the child in rehabilitation at all.

**d. Timing must comport with the rehabilitative purpose of juvenile court.**

The General Assembly was intentional in selecting the timing for the hearing. R.C. 2152.84 provides for there to be a hearing to determine the continued necessity of the penalty "upon the completion of disposition." Had the legislature intended the juvenile court to simply review the child's status at the conclusion of its age jurisdiction, it would have stated review to "occur at age 21." It did not. Rather, tying the hearing to the "completion of disposition" permits both the disposition and timing of the hearing to be individualized.

As this Court has reiterated, the timing of these hearings aids in the child's rehabilitation. *In re I.A.*, 140 Ohio St.3d 203, 2014-Ohio-3155, 16 N.E.3d 653, ¶ 16 (noting that where a child is classified, but told if they are successful in their treatment, the classification can be reduced or terminated; such a process provides good motivation for the youth to successfully complete their treatment). And again, the purpose of the disposition and the system as a whole is to rehabilitate these children and reintegrate them into society. This goal is eviscerated when the juvenile court unreasonably delays the review of their rehabilitation.

For an initial matter, registration presents a barrier to the child's reintegration into society. (OPD Amicus 18-20). It is well-established that the stigma of registration poses barriers in a number of areas in the young person's life including housing, education, and employment. (*Id.* at 13-20). Additionally, for the same reason that registration creates barriers for youth, these barriers also impede the child's rehabilitation. *Id.* Accordingly, continued placement on the registry actually impedes the very purpose that the juvenile court is attempting to achieve.

Moreover, the continued placement on the registry, without appropriate and timely review, creates a substantial risk that the registration might continue for those who no longer pose a risk to society. Such a result, is not only absurd, but is contrary to the purposes provided in R.C. 2152.84 and R.C. Chapter 2950. Delaying the completion of disposition hearing cannot be reconciled with the purpose of juvenile court. In short, it is completely inconsistent with the rehabilitative purpose of the juvenile system.

**e. Extension of disposition by way of the suspended commitment was erroneous and offends due process.**

It is important to note that for purposes of this case, R.B. is not asserting that a juvenile court may never extend a disposition and thereby extend the time to conduct the hearing under R.C. 2152.84. Again, the statute specifically allows for individualized treatment.

Here, the juvenile court relied upon the disposition of “monitored time” and the “suspended commitment” to extend the time it had to conduct the hearing under R.C. 2152.84. (A-20-22).<sup>14</sup> Yet, after July 29, 2013, there was absolutely no further supervision or rehabilitative efforts of the juvenile court on behalf of R.B. *See* (S-41-50). For all intents and purposes, R.B.’s disposition was indeed complete.

The interests at stake here are paramount: continued punishment into adulthood or a finding of rehabilitation and removal from the registry. The threat of continued classification, after the completion of disposition encourages the juvenile’s cooperation in his own rehabilitation. Accordingly, like in an SYO sentence, classification under R.C. 2152.84 acts as “both carrot and stick.” There must be a meaningful hearing to determine whether the child has been rehabilitated or if they remain a threat to society.

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<sup>14</sup> Although this Court did not accept jurisdiction over this issue, R.B. maintains that the suspended commitment and imposition of monitored time did not comport with due process or the juvenile rules. Juvenile Court never explained to R.B. what was meant by “suspended commitment.” (S-79).

**f. The delay prejudiced R.B.’s ability to seek removal from the registry.**

The juvenile court’s delay in holding the hearing resulted in R.B. losing an opportunity to seek removal from the registry. Between the time R.B. completed his probation/treatment—and the holding of the hearing in May 2017, R.B. could have received two separate opportunities to have his classification status reviewed or modified. Specifically, if the hearing would have occurred on July 29, 2013, as R.B. contends it statutorily and constitutionally was required to be held, he would have been eligible for removal from the registry in July 2016, three years after the completion of disposition hearing. *See* R.C. 2152.85.

To find prejudice in R.B.’s case, one has to look no further than the entry continuing him on the registry. (A-18). In that entry, the juvenile court made clear that “although records indicate R. was successful in treatment” that was not enough *Id.* Rather, it was his conduct as an *adult* in failing to register and other behavior related to that offense which resulted in its decision to continue his classification. The court therefore punished R.B. for failing to follow the rules for registration when it was that specific duty the court was mandated review years before.

**g. Delay in the imposition of a penalty causes due-process violation.**

It bears repeating that juvenile sex offender classification and registration represents a punishment. *See e.g. State v. Williams*, 129 Ohio St.3d 344, 2011-Ohio-3374, 952 N.E.2d 1108; *In re D.J.S.*, 130 Ohio St.3d 257, 2011-Ohio-5342, 957 N.E.2d 291. While in the context of the imposition of criminal sentencing, it has been held that the delay in the imposition of a sentence can violate a defendant’s due process rights. *See e.g. State v. Smith*, 196 Ohio App.3d 431, 2011-Ohio-3786, 964 N.E.2d 3, ¶ 15 (10th Dist); *State v. Ventura*, 2016-Ohio-5151, 69 N.E.3d 189, ¶ 23 (1st Dist.). R.B. submits that a delay in considering the necessity of continued placement on the registry pursuant to R.C. 2152.84 similarly violates a defendant’s due process rights. The

rationale provided in these cases provides even further support for R.B.'s claim that his due process rights were violated.

Based on the foregoing, in the context of R.B.'s case, the due process requirement of fundamental fairness was not met when the juvenile court did not conduct a completion of disposition hearing at the time he completed his treatment. R.B. respectfully requests this Court to adopt his third proposition of law.

### **CONCLUSION**

Juvenile courts only have authority to act where the legislature has granted such authority. Here, the State asks that the clear traditional jurisdictional limits of the court as well as the mandated process to impose a juvenile sex offender classification be ignored. Even if compliance with the statute is found, the 46 month delay between completion of treatment and R.B.'s R.C. 2152.84 hearing and classification order violates the due process requirement of fundamental fairness. Based on the foregoing, R.B. requests this Court affirm the decision of the First District Court of Appeals, reject the State's proposition of law, and adopt his third proposition of law.

Respectfully submitted,

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### **CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing Merit Brief of Appellee/Cross-Appellant has been served on Paula E. Adams, Counsel for Appellant, State of Ohio, via electronic mail at paula.adams@hcpros.org and Daniel T. Van, Counsel for Amicus, at dvan@prosecutor.cuyahogacounty.us on this 12th day of May, 2020.

/s/ Julie Kahrs Nessler

JULIE KAHRS NESSLER (0085189)

IN THE  
SUPREME COURT OF OHIO

**IN RE R.B.,**

A Minor Child, Appellant.

Case No.2019-1325

Appellate Case No.: C-170622, C-170623

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ON APPEAL FROM THE HAMILTON COUNTY COURT OF APPEALS,  
FIRST APPELLATE DISTRICT COURT OF APPEALS

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**APPENDIX TO MERIT BRIEF OF APPELLEE AND  
CROSS-APPELLANT R.B.**

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IN THE  
SUPREME COURT OF OHIO

**IN RE R.B.,**

A Minor Child, Appellant.

Case No.2019-1325

Appellate Case No.: C-170622, C-170623

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ON APPEAL FROM THE HAMILTON COUNTY COURT OF APPEALS,  
FIRST APPELLATE DISTRICT COURT OF APPEALS

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**NOTICE OF CROSS APPEAL**

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JOSEPH T. DETERS (0012084P)  
Hamilton County Prosecutor

PAULA E. ADAMS (0069036P)  
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**Counsel for R.B.**

IN THE  
SUPREME COURT OF OHIO

**IN RE R.B.,**

Case No.2019-1325

A Minor Child, Appellant.

Appellate Case No.: C-170622, C-170623

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Now comes R.B., a juvenile, and cross appellant and hereby gives Notice to the Ohio Supreme Court of his intention cross appeal from the judgment of the Hamilton County Court of Appeals, First Appellate District entered in Case No. C-170622, C-170623 on August 16, 2019. State of Ohio, Appellant filed its notice of appeal on September 30, 2019. This timely notice of appeal follows. S.Ct.Prac.R. 7.01(A)(2)(a).

S.Ct.Prac.R. 7.05(A)(1) cross appellant is to “file a combined memorandum both in response to appellant/cross-appellee’s memorandum and in support of jurisdiction for the cross-appeal within thirty days of the filing of appellant/cross-appellee’s memorandum in support of jurisdiction.” As to the cross appeal, R.B. asserts this case raises a substantial constitutional question and is one of public or great general interest.

/s/ Julie Kahrs Nessler

JULIE KAHRS NESSLER (0085189)

Counsel for R.B.

Office of the Hamilton County Public Defender  
125 East Court Street, Ninth Floor  
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JKNessler@cms.hamilton-co.org

### **CERTIFICATE OF SERVICE**

The undersigned certifies that a copy of the foregoing was served on October 10, 2019 to:

Paula Adams by electronic mail at [paula.adams@hcpros.org](mailto:paula.adams@hcpros.org)

Daniel Van by electronic mail at [dvan@prosecutor.cuyahogacounty.us](mailto:dvan@prosecutor.cuyahogacounty.us)

*/s/ Julie Kahrs Nessler*

JULIE KAHRS NESSLER (0085189)  
Counsel for A.S.

**IN THE COURT OF APPEALS  
FIRST APPELLATE DISTRICT OF OHIO  
HAMILTON COUNTY, OHIO**

IN RE: R.B. : APPEAL NOS. C-170622  
C-170623  
: TRIAL NOS. 11-9083X  
11-9085X  
:  
: *JUDGMENT ENTRY.*

This cause was heard upon the appeal, the record, the briefs, and arguments.

The judgment of the trial court is vacated for the reasons set forth in the Opinion filed this date.

Further, the court holds that there were reasonable grounds for this appeal, allows no penalty, and orders that costs are taxed under App. R. 24.

The court further orders that 1) a copy of this Judgment with a copy of the Opinion attached constitutes the mandate, and 2) the mandate be sent to the trial court for execution under App. R. 27.

**To The Clerk:**

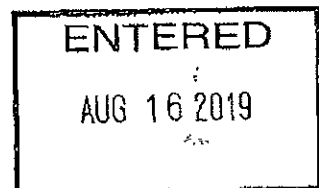
**Enter upon the Journal of the Court on August 16, 2019 per Order of the Court.**

By: 

**Presiding Judge**



D126326764



**IN THE COURT OF APPEALS  
FIRST APPELLATE DISTRICT OF OHIO  
HAMILTON COUNTY, OHIO**

IN RE: R.B.

: APPEAL NOS. C-170622  
C-170623

: TRIAL NOS. 11-9083X  
11-9085X

:  
: *OPINION.*

PRESENTED TO THE CLERK  
OF COURTS FOR FILING

AUG 16 2019

Appeals From: Hamilton County Juvenile Court

COURT OF APPEALS

Judgments Appealed From Are: Vacated

Date of Judgment Entry on Appeal: August 16, 2019

*Joseph T. Deters*, Hamilton County Prosecuting Attorney, and *Paula E. Adams*,  
Assistant Prosecuting Attorney, for Plaintiff-Appellee State of Ohio,

*Raymond T. Faller*, Hamilton County Public Defender, and *Julie Kahrs Nessler*,  
Assistant Public Defender, for Defendant-Appellant R.B.

ENTERED

AUG 16 2019

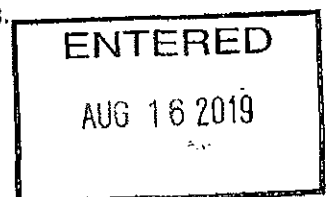
**CROUSE, Judge.**

{¶1} R.B. has appealed the judgments of the juvenile court continuing his classification as a Tier I juvenile-offender registrant under Ohio's version of the Adam Walsh Act. We vacate the judgments of the juvenile court continuing R.B.'s Tier I classification, because we hold that the juvenile court had no jurisdiction to enter an order continuing R.B.'s Tier I classification after he had turned 21 and his disposition, by its own terms, had ended.

**I. Procedural Background**

{¶2} On October 14, 2011, R.B. admitted in juvenile court to acts which if committed by an adult would have constituted two counts of gross sexual imposition, felonies of the fourth degree. R.B., who was 14 when he committed the acts, admitted to placing his penis into the mouths of his two four-year-old cousins. The magistrate entered an order in both cases stating that the parties agreed that "this is a Tier I offense." On December 2, 2011, R.B. was committed to the Department of Youth Services ("DYS") until age 21. The commitment was suspended, and he was placed on probation and ordered to complete the residential treatment program at Altercrest.

{¶3} At a hearing on January 13, 2012, the magistrate stated on the record that the parties had agreed that R.B. would be classified as a Tier I juvenile-offender registrant, and the parties agreed with the magistrate's statement on the record. The same day, the magistrate issued a decision in each case, which erroneously stated in the body that R.B. was a Tier III sex offender, but at the end of each entry is typed "THIS IS A TIER I CLASSIFICATION—NOT TIER III." The entries contain the R.C. 2152.84 and 2152.85 modification or termination language. R.B. was notified of his Tier I registration duties, and both R.B. and his mother signed the notice of registration duties. There was no objection to the January 13, 2012 decisions.





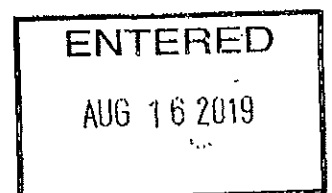
{¶4} On February 6, 2013, R.B.'s Altercrest placement was terminated. The juvenile court entered an order on July 29, 2013, releasing R.B. from official probation and placing him on nonreporting probation with monitored time. On September 3, 2014, the magistrate denied R.B.'s application to seal the record and noted that he was required to register until 2022 unless reclassified.

{¶5} The state filed a motion to set a completion-of-disposition hearing on October 24, 2016. R.B. objected on the basis that the juvenile court lacked jurisdiction to hold a completion-of-disposition hearing. R.B. argued that his end-of-disposition hearing under R.C. 2152.84 was held too late, because it should have been held when he completed his court-ordered treatment, in the alternative, he argued that the hearing was being held too early, because he had not yet completed his disposition. On January 30, 2017, the magistrate ordered the completion-of-disposition hearing to be held. R.B.'s objection was overruled by the juvenile court, which found that it had jurisdiction to hold the completion-of-disposition hearing. The magistrate held the completion-of-disposition hearing on May 8, 2017. On July 13 and 14, 2017, the magistrate entered decisions continuing R.B.'s Tier I classification. R.B. filed objections.

{¶6} On July 20, 2017, R.B. turned 21 years of age. The juvenile court held a hearing on R.B.'s objections on September 19, 2017. On October 30, 2017, the juvenile court denied R.B.'s objections and adopted the magistrate's decisions continuing R.B.'s Tier I classification. R.B. has appealed.

## II. Analysis

{¶7} This court entered an order advising counsel of an issue, identified by the court but not raised in the parties' briefs, to be addressed at oral argument. We framed the issue as:



Did the juvenile court have jurisdiction to enter an order continuing R.B.'s Tier I classification after he turned 21 and his disposition, by its own terms, had ended? Be prepared to discuss the impact, if any, of *State v. Amos*, 2017-Ohio-8448, 87 N.E.3d 1305 (1st Dist.), on this issue.

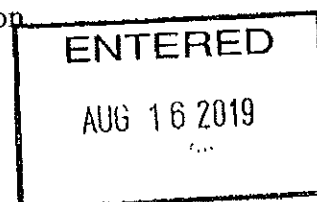
{¶8} We answer the question raised by this court in the negative and hold that the juvenile court had no jurisdiction to enter an order continuing R.B.'s Tier I classification after he turned 21 and his disposition, by its own terms, had ended.

{¶9} R.C. 2152.83(B)(1) provides that in the case of a juvenile offender who was 14 or 15 years of age when he committed his offense the juvenile court has discretion as to whether to classify the juvenile as a juvenile-offender registrant. In this case, the juvenile court classified R.B., who was 14 at the time he committed his offenses, as a Tier I juvenile-offender registrant. R.C. 2152.84(A)(1) requires that when a juvenile court has issued an order under R.C. 2152.83 classifying the juvenile as a juvenile-offender registrant, "upon completion of the disposition of that child made for the sexually oriented offense or the child-victim oriented offense on which the juvenile offender registrant order was based, the judge \* \* \* shall conduct a hearing to review the effectiveness of the disposition \* \* \* to determine whether the prior classification" should be continued, terminated, or modified. R.C. 2152.84(A)(1) refers to the completion-of-disposition hearing in mandatory terms, stating that the juvenile court *shall* hold a second classification hearing upon the completion of disposition.

{¶10} This court stated in *In re Antwon C.*, 182 Ohio App.3d 237, 2009-Ohio-2567, 912 N.E.2d 182, ¶ 20 (1st Dist.),

Juvenile [offender registrants] are afforded two classification hearings.

First, under R.C. 2152.83, a juvenile is afforded a tier-classification



hearing either as part of the child's disposition or, if the child is committed to a secure facility, when the child is released. Second, under R.C. 2152.84, when a child completes all aspects of the disposition, including probation and any ordered treatment, the trial court "shall conduct a hearing" to consider the risk of reoffending so that the trial court can determine whether the order to register as a sex offender should be continued or terminated. Further, at the reclassification hearing, the trial court must determine whether the specific tier classification in which the child has been placed is proper and if it should be continued or modified.

{¶11} In *State v. Schulze*, 2016-Ohio-470, 59 N.E.3d 673 (1st Dist.), the juvenile court had correctly entered an initial classification order under Megan's Law, former R.C. Chapter 2950, but had erroneously held Schulze's completion-of-disposition hearing and entered the reclassification order under the Adam Walsh Act, rendering the order void. We held that the juvenile court had not properly completed the statutorily-required process for classifying Schulze as a juvenile-offender registrant, and that the initial classification order was not "revived or still in effect." Therefore, there was no valid order in place requiring Schulze to register. We stated, "In order to complete the process of classifying a juvenile as a sex-offender registrant, the juvenile court was required to hold an end-of-disposition hearing." *Id.* at ¶ 8.

{¶12} We relied on *In re Antwon C. and Schulze* in *State v. Amos*, 2017-Ohio-8448, 87 N.E.3d 1305 (1st Dist.), *appeal accepted*, 152 Ohio St.3d 1442, 2018-Ohio-1600, 96 N.E.3d 298, *appeal dismissed as improvidently accepted*, 156 Ohio St.3d 237, 2019-Ohio-168, 125 N.E.3d 832. Amos had been adjudicated delinquent of rape and committed to DYS. He was subsequently released from DYS, placed on

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"parole," and, by agreement, classified by the juvenile court as a Tier I juvenile-offender registrant. Amos was discharged from parole without a completion-of-disposition hearing being held. Over a year later, the juvenile court held, in Amos's absence, what it termed a "completion-of-disposition hearing" and continued Amos's Tier I classification. In holding that the juvenile court had no jurisdiction to classify Amos as a Tier I juvenile-offender registrant because the court had not properly completed the statutorily-required classification process, we stated,

The juvenile court loses its jurisdiction over a juvenile who has completed his parole or community control and has been discharged by the court. Because the juvenile court did not hold a hearing before Amos was discharged from parole, completing his disposition for his sexually-oriented offense, the juvenile court did not properly complete the statutorily-required process for classifying him as a juvenile-offender registrant, and thus, it had no authority to classify Amos as a Tier I offender. Therefore, Amos has no duty to register as a sex offender.

*Id.* at ¶ 14. We noted that when Amos had been discharged from parole by the juvenile court he had "completed all aspects of the disposition" for his sexually-oriented offense. We held that at that time, the juvenile court should have held a completion-of-disposition hearing under R.C. 2152.84.

{¶13} In deciding *Amos*, we also relied on the Ohio Supreme Court's decision in *State ex rel. Jean-Baptiste v. Kirsch*, 134 Ohio St.3d 421, 2012-Ohio-5697, 983 N.E.2d 302, in which the court held that the juvenile court lacked statutory authority to conduct an initial juvenile-offender-registration hearing after the juvenile had fully satisfied the court's delinquency adjudication and had turned 21. The Supreme Court stated that the juvenile court "patently and unambiguously" lacked jurisdiction

to classify Jean-Baptiste once his juvenile disposition had been fully satisfied. The court stated,

Because the juvenile court lacks statutory authority to classify Jean-Baptiste after he was released and the court's delinquency adjudication has been fully satisfied, we agree with Jean-Baptiste's first proposition of law as applied to this case and hold that the juvenile court lacks jurisdiction to classify Jean-Baptiste who is now no longer a "child" under the applicable statute.

*Id.* at ¶ 32. The Supreme Court noted that *Jean-Baptiste* was "in accord" with its decision in *In re Cross*, 96 Ohio St.3d 328, 2002-Ohio-4183, 774 N.E.2d 258, in which the court held that the juvenile court had no jurisdiction to reimpose a suspended commitment to a DYS facility after the juvenile had been released from probation, because "the completion of probation signals the end of the court's jurisdiction over a delinquent juvenile." *In re Cross* at ¶ 28. "When the court ended Cross's probation, it ended its ability to make further dispositions as to Cross on that delinquency count." *Id.*

{¶14} In the instant case, R.B.'s disposition was commitment to DYS until age 21, although that commitment was suspended. R.B. turned 21 on July 20, 2017. At that time, his disposition, by its own terms, was completed. The juvenile court held a hearing on R.B.'s objections to the magistrate's decision on September 19, 2017, and did not enter orders continuing R.B.'s Tier I classification until October 30, 2017, well after R.B. had turned 21 and his disposition had ended. Because the trial court did not complete the statutorily-required process for classifying R.B. prior to the completion of his disposition upon his turning 21, it had no jurisdiction to classify him as a Tier I offender. The initial classification order is not revived or still in effect, and therefore, there is no order in place requiring R.B. to register as a sex

offender. See *Amos*, 2017-Ohio-1305, 87 N.E.3d 1305, at ¶ 8; *Schulze*, 2016-Ohio-470, 59 N.E.3d 673, at ¶ 9-11. Therefore, R.B. has no duty to register as a sex offender under R.C. Chapter 2950. See *Amos* at ¶ 14.

{¶15} We note that our holding in this case in no way impacts our opinion in *State v. Buttery*, 1st Dist. Hamilton No. C-160609, 2017-Ohio-9113, in which we upheld R.B.'s adult conviction for failing to register, because that conviction was based on the initial Tier I classification imposed at his disposition, which was still in effect at that time. We pointed out in that case that the record did not reflect that R.B. had had his completion-of-disposition hearing.

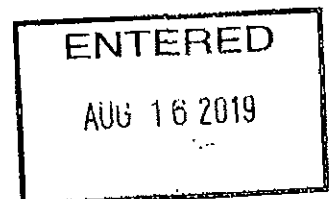
{¶16} R.B.'s assignments of error are made moot by our disposition in this case. The juvenile court's judgments continuing R.B.'s classification as a Tier I juvenile-offender registrant are hereby vacated.

Judgments vacated.

**MOCK, P.J., and BERGERON, J., concur.**

Please note:

The court has recorded its own entry this date.



# HAMILTON COUNTY JUVENILE COURT

Case No. 11-9083 X

## Judicial Entry

IN RE:

R

B

1605822

GROSS SEXUAL IMPOSITION F4 2907.05 ORC

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This matter came before the Court on October 30, 2017.

This Matter came to be heard on the Objections filed July 27, 2017 by R : B , through Attorney Julie Kahrs Nessler, to the Decision of the Magistrate dated July 14, 2017. Memorandum in Support of Objection to Magistrate's Decision was filed by R : B through counsel, on September 13, 2017.

All transcripts have been filed, properly made a part of the record and reviewed. All filings and evidence has been reviewed. Further, the Court heard oral arguments on the Objections to the Magistrate's Decision.

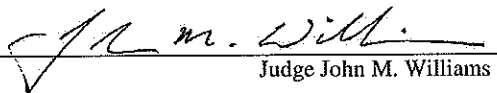
Based upon an independent review of the objected matters, the evidence presented and the oral arguments submitted to the Court, the Court finds that the Magistrate properly determined the factual issues and appropriately applied the law. The Magistrate was able to view the demeanor of the witnesses, judge the credibility of the testimony and the weight of the evidence presented to the Court. Furthermore, the Magistrate's Decision is supported by the evidence and in accordance with the law.

Therefore, the ORDER OF THE COURT IS AS FOLLOWS:

Upon consideration and review, the objection is hereby denied. The Decision of the Magistrate is accepted and approved as the judgment of the Court.

Accordingly, the JUDGMENT OF THE COURT IS AS FOLLOWS:

After hearing conducted according to ORC 2152.84, and after consideration of all relevant factors, the classification as a juvenile offender registrant continues as does the prior order that the youth is a Tier 1 sex offender.

  
Judge John M. Williams



\*J8953285\*  
JCMR150C.DOT

Notice of Appeal

Pursuant to Juv. R. 34(J) and App.R. 4, a party has the right to appeal the judgment of this Court to the 1st District Court of Appeals by filing a Notice of Appeal in the Juvenile Court Clerk's Office within 30 days of the judgment.

**Electronically Filed**

Juvenile Court  
Hamilton County, Ohio  
10/30/2017 03:47 PM  
JOHN M WILLIAMS, Judge  
& Ex-Officio Clerk

Jemr150c



# HAMILTON COUNTY JUVENILE COURT

Case No. 11-9085 X

## Judicial Entry

IN RE:

R

B

1605822

GROSS SEXUAL IMPOSITION F4 2907.05 ORC

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This matter came before the Court on October 30, 2017.

This Matter came to be heard on the Objections filed July 27, 2017 by R : B , through Attorney Julie Kahrs Nessler, to the Decision of the Magistrate dated July 14, 2017. Memorandum in Support of Objection to Magistrate's Decision was filed by R : B , through counsel, on September 13, 2017.

All transcripts have been filed, properly made a part of the record and reviewed. All filings and evidence has been reviewed. Further, the Court heard oral arguments on the Objections to the Magistrate's Decision.

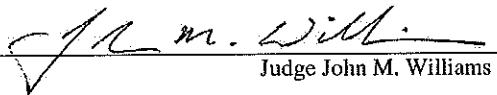
Based upon an independent review of the objected matters, the evidence presented and the oral arguments submitted to the Court, the Court finds that the Magistrate properly determined the factual issues and appropriately applied the law. The Magistrate was able to view the demeanor of the witnesses, judge the credibility of the testimony and the weight of the evidence presented to the Court. Furthermore, the Magistrate's Decision is supported by the evidence and in accordance with the law.

Therefore, the ORDER OF THE COURT IS AS FOLLOWS:

Upon consideration and review, the objection is hereby denied. The Decision of the Magistrate is accepted and approved as the judgment of the Court.

Accordingly, the JUDGMENT OF THE COURT IS AS FOLLOWS:

After hearing conducted according to ORC 2152.84, and after consideration of all relevant factors, the classification as a juvenile offender registrant continues as does the prior order that the youth is a Tier 1 sex offender.

  
Judge John M. Williams



\*J8953250\*  
JCMR150C.DOT

Notice of Appeal

Pursuant to Juv. R. 34(J) and App.R. 4, a party has the right to appeal the judgment of this Court to the 1st District Court of Appeals by filing a Notice of Appeal in the Juvenile Court Clerk's Office within 30 days of the judgment.

**Electronically Filed**

Juvenile Court  
Hamilton County, Ohio  
10/30/2017 03:49 PM  
JOHN M WILLIAMS, Judge  
& Ex-Officio Clerk

Jemr150c

# HAMILTON COUNTY JUVENILE COURT

Case No. 11-9083 X

## Decision of Magistrate

IN RE:

R

'B

1605822

GROSS SEXUAL IMPOSITION F4 2907.05 ORC

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This matter came before the Court on July 14, 2017.

Represented by Attorney Julie Kahrs Nessler. Ernest Lee and John Hatcher represented the State. After hearing conducted according to ORC 2152.84, and after consideration of all relevant factors, the classification as a juvenile offender registrant continues as does the prior order that the youth is a Tier 1 sex offender. See 11-9085.



\_\_\_\_\_  
Magistrate Mary T. Schulcz

### Objection of Magistrate's Decision

Any party may file written objections to a Magistrate's Decision within 14 days of the filing of the decision. A party shall not assign as error on appeal the Court's adoption of any factual finding or legal conclusion, whether or not specifically designated as a finding of fact or conclusion of law under Juv. R. 40 (D)(3)(a)(ii), unless the party timely and specifically objects to that factual finding or legal conclusion as required by Juv. R. 40(D)(3)(b).

### Electronically Filed

Juvenile Court Hamilton County, Ohio 7/14/2017 12:14 PM JOHN M WILLIAMS, Judge & Ex-Officio Clerk
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\*J8872191\*  
JCMR150B.DOT

# HAMILTON COUNTY JUVENILE COURT

Case No. 11-9085 X

## Decision of Magistrate

IN RE:

R B 1605822

GROSS SEXUAL IMPOSITION F4 2907.05 ORC

This matter came before the Court on July 13, 2017.

Represented by Attorney Julie Kahrs Nessler. Ernst Lee and John Hatcher represent the State of Ohio. After hearing conducted according to ORC 2152.84, and after consideration of all relevant factors, the classification as a juvenile offender registrant continues as does the prior order that the youth is a Tier 1 sex offender. This Court conducted a hearing on June 5, 2017. Written closing arguments were submitted and oral arguments were June 5, 2017. The Court considered all evidence including the documents submitted by the state and defense. Although records indicate that R was successful in treatment, that alone does not lead this Court to conclude that the juvenile offender was rehabilitated. It is concluded by the Court, given all the factors to consider, that the offender was not rehabilitated. The defense argued that given the time that lapsed before this hearing was held, that the Court should not consider the record of the offender as an adult. This court chooses to not ignore the behavior and violations of the law that has resulted in R being incarcerated. He has had possession of a gun; failed to register as a sex offender; did not successfully complete a Corrective Thinking class as Court ordered; convicted of a theft; violated probation by testing positive for marijuana and cocaine as well as failing to submit to all ordered drug screens; failed to complete drug treatment; and perform Court Ordered community service as ordered by the Court. There remains a risk as the disposition and the treatment does not lead this Court to conclude that they resulted in the intended effect of rehabilitation.



Magistrate Mary T. Schulcz

### Objection of Magistrate's Decision

Any party may file written objections to a Magistrate's Decision within 14 days of the filing of the decision. A party shall not assign as error on appeal the Court's adoption of any factual finding or legal conclusion, whether or not specifically designated as a finding of fact or conclusion of law under Juv. R. 40 (D)(3)(a)(ii), unless the party timely and specifically objects to that factual finding or legal conclusion as required by Juv. R. 40(D)(3)(b).

### Electronically Filed

Juvenile Court  
Hamilton County, Ohio  
7/13/2017 01:38 PM  
JOHN M WILLIAMS, Judge  
& Ex-Officio Clerk



\*J8871298\*  
JCMR150B.DOT

# HAMILTON COUNTY JUVENILE COURT

Case No. 11-9083 X

## Judicial Entry

IN RE:

R

B

1605822

GROSS SEXUAL IMPOSITION F4 2907.05 ORC

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This matter came before the Court on March 6, 2017.

This matter came to be heard on the Objections to the Magistrate's Decision dated January 30, 2017, and filed by R B ; through counsel, on January 30, 2017.

Memorandum in Support of the Objections to the Magistrate's Decision was filed by defense counsel on February 15, 2017.

On February 22, 2017, this Court heard oral arguments on the Objections. Following the hearing, the matter was taken under advisement and continued for the issuance of this Judicial Entry.

On February 28, 2017, defense counsel filed a Notice of Supplemental Evidence in Support of Defendant's Objection to the Magistrate's Decision. On March 1, 2017, defense counsel filed Exhibit to Defendant's Notice of Supplemental Evidence in Support of Defendant's Objection to the Magistrate's Decision.

At issue is whether the Court has jurisdiction to proceed with a completion of disposition hearing in this case.

On October 14, 2011, R B (d.o.b. 07/20/1996) was adjudicated delinquent on two counts after admitting to the underlying offenses of gross sexual imposition in violation of R.C. 2907.05, felonies of the fourth degree if committed by an adult. On November 17, 2011, the State and defense agreed that the offenses were Tier I offenses. On December 2, 2011, a dispositional hearing was held and the defendant was given a suspended commitment to the Ohio Department of Youth Services, placed on probation, and ordered to attend treatment at Altercrest. On January 13, 2012, an initial classification hearing was held and the defendant was adjudicated a juvenile offender registrant and classified as a Tier I offender pursuant to R.C. 2152.83(B). No objections were filed to the initial classification. Although there was a clerical error in the Magistrate's entry stating that the classification was a Tier III, that error was clarified in the same entry and the Explanation of Duties to Register as a Juvenile Offender Registrant that was appended to the entry and signed by the defendant clearly stated that the defendant was a Tier I offender.

On February 6, 2013, the defendant was terminated from placement at Altercrest, but remained on probation.

On July 29, 2013, the defendant was released from official probation and placed on non-reporting probation with monitored time, continuing this Court's jurisdiction and control over the juvenile until he reached 21 years of age.



\*J8769225\*  
JCMR150C.DOT

On July 11, 2014, a sealing application was filed, which was denied by a Magistrate's order on September 3, 2014.

On October 14, 2014, a Magistrate issued an order setting the matter for a completion of disposition hearing pursuant to R.C. 2152.84 to be held on November 19, 2014.

On November 19, 2014, a Magistrate issued an order stating that the matter was before the court for re-classification and continuing the matter because the defendant needed to secure a new evaluation.

Following a number of continuances at the defendant's request, the matter was before a Magistrate on April 28, 2015. Following the hearing, the Magistrate issued an order stating the following:

"A classification hearing was held on 1/13/2012. The defendant was determined to be a Tier III sex offender. On 7/11/2014 the defendant filed an application requesting that his record be sealed. The application was denied on 9/3/2014. The defense then made an informal request for re-classification. That request is now withdrawn."

The hearing held on April 28, 2015 was not a completion of disposition hearing. Therefore, a completion of disposition hearing has not yet been held in this matter. Furthermore, the Magistrate's Decision of that date did not reclassify or otherwise modify the defendant's sex offender classification. The Magistrate's Decision of April 28, 2015, stating that the defendant was determined to be a Tier III offender on January 13, 2012, is nothing more than an inaccurate recitation of the procedural history of the case and has no effect on the valid initial order classifying the defendant as a Tier I offender on January 13, 2012.

Upon completion of the disposition, the Court is required to hold a hearing to "\*\*\*\*review the effectiveness of the disposition and of any treatment provided for the child, to determine the risks that the child might re-offend, and to determine whether the prior classification\*\*\*\*should be continued, modified, or terminated." R.C. 2152.84(A)(1).

The term "completion of disposition" is not defined in the statute and is subject to the interpretation of the Juvenile Court in an individual case. In this case, the defendant was given a suspended commitment to DYS that remained in effect until his attainment of twenty-one years of age. Although the defendant was released from official probation on July 29, 2013, he remains on non-reporting probation with monitored time until he reaches twenty-one years of age. The defendant's disposition of a suspended commitment to DYS continues beyond July 29, 2013, and this Court retains jurisdiction and control over the juvenile until he reaches twenty-one years of age. Therefore, the Court has jurisdiction and a statutory duty to conduct a completion of disposition classification hearing in this matter pursuant to R.C. 2152.84.

Therefore, the ORDER OF THE COURT IS AS FOLLOWS:

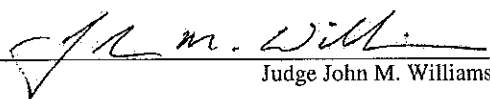
Based upon an independent review of the objected matters, the Objections to the Magistrate's Decision dated January 30, 2017, and filed by R B , through counsel, on January 30, 2017, are denied. The Magistrate's Decision dated January 30, 2017, is accepted and adopted as the judgment of the Court.

THE COURT FURTHER ORDERS:

The Assistant Prosecuting Attorney and the Attorneys for R B shall have access to review the defendant's Altercrest records. The records shall not be reproduced. If upon review of the records either party desires a copy, a motion shall be filed to that effect.

Continue for pre-trial report to 3/21/2017 at 9:30 AM Magistrate Mary T. Schulcz, L. Steffen.

Jcmr150c

  
Judge John M. Williams

Electronically Filed

Juvenile Court  
Hamilton County, Ohio  
3/6/2017 02:14 PM  
JOHN M WILLIAMS, Judge  
& Ex-Officio Clerk

Jemr150c

# HAMILTON COUNTY JUVENILE COURT

Case No. 11-9085 X

## Judicial Entry

IN RE:

R

B

1605822

GROSS SEXUAL IMPOSITION F4 2907.05 ORC

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This matter came before the Court on March 6, 2017.

This matter came to be heard on the Objections to the Magistrate's Decision dated January 30, 2017, and filed by R B through counsel, on January 30, 2017.

Memorandum in Support of the Objections to the Magistrate's Decision was filed by defense counsel on February 15, 2017.

On February 22, 2017, this Court heard oral arguments on the Objections. Following the hearing, the matter was taken under advisement and continued for the issuance of this Judicial Entry.

On February 28, 2017, defense counsel filed a Notice of Supplemental Evidence in Support of Defendant's Objection to the Magistrate's Decision. On March 1, 2017, defense counsel filed Exhibit to Defendant's Notice of Supplemental Evidence in Support of Defendant's Objection to the Magistrate's Decision.

At issue is whether the Court has jurisdiction to proceed with a completion of disposition hearing in this case.

On October 14, 2011, R B (d.o.b. 07/20/1996) was adjudicated delinquent on two counts after admitting to the underlying offenses of gross sexual imposition in violation of R.C. 2907.05, felonies of the fourth degree if committed by an adult. On November 17, 2011, the State and defense agreed that the offenses were Tier I offenses. On December 2, 2011, a dispositional hearing was held and the defendant was given a suspended commitment to the Ohio Department of Youth Services, placed on probation, and ordered to attend treatment at Altercrest. On January 13, 2012, an initial classification hearing was held and the defendant was adjudicated a juvenile offender registrant and classified as a Tier I offender pursuant to R.C. 2152.83(B). No objections were filed to the initial classification. Although there was a clerical error in the Magistrate's entry stating that the classification was a Tier III, that error was clarified in the same entry and the Explanation of Duties to Register as a Juvenile Offender Registrant that was appended to the entry and signed by the defendant clearly stated that the defendant was a Tier I offender.

On February 6, 2013, the defendant was terminated from placement at Altercrest, but remained on probation.

On July 29, 2013, the defendant was released from official probation and placed on non-reporting probation with monitored time, continuing this Court's jurisdiction and control over the juvenile until he reached 21 years of age.



\*J8769217\*  
JCMR150C.DOT



On July 11, 2014, a sealing application was filed, which was denied by a Magistrate's order on September 3, 2014.

On October 14, 2014, a Magistrate issued an order setting the matter for a completion of disposition hearing pursuant to R.C. 2152.84 to be held on November 19, 2014.

On November 19, 2014, a Magistrate issued an order stating that the matter was before the court for re-classification and continuing the matter because the defendant needed to secure a new evaluation.

Following a number of continuances at the defendant's request, the matter was before a Magistrate on April 28, 2015. Following the hearing, the Magistrate issued an order stating the following:

"A classification hearing was held on 1/13/2012. The defendant was determined to be a Tier III sex offender. On 7/11/2014 the defendant filed an application requesting that his record be sealed. The application was denied on 9/3/2014. The defense then made an informal request for re-classification. That request is now withdrawn."

The hearing held on April 28, 2015 was not a completion of disposition hearing. Therefore, a completion of disposition hearing has not yet been held in this matter. Furthermore, the Magistrate's Decision of that date did not reclassify or otherwise modify the defendant's sex offender classification. The Magistrate's Decision of April 28, 2015, stating that the defendant was determined to be a Tier III offender on January 13, 2012, is nothing more than an inaccurate recitation of the procedural history of the case and has no effect on the valid initial order classifying the defendant as a Tier I offender on January 13, 2012.

Upon completion of the disposition, the Court is required to hold a hearing to "\*\*\*\*review the effectiveness of the disposition and of any treatment provided for the child, to determine the risks that the child might re-offend, and to determine whether the prior classification\*\*\*\*should be continued, modified, or terminated." R.C. 2152.84(A)(1).

The term "completion of disposition" is not defined in the statute and is subject to the interpretation of the Juvenile Court in an individual case. In this case, the defendant was given a suspended commitment to DYS that remained in effect until his attainment of twenty-one years of age. Although the defendant was released from official probation on July 29, 2013, he remains on non-reporting probation with monitored time until he reaches twenty-one years of age. The defendant's disposition of a suspended commitment to DYS continues beyond July 29, 2013, and this Court retains jurisdiction and control over the juvenile until he reaches twenty-one years of age. Therefore, the Court has jurisdiction and a statutory duty to conduct a completion of disposition classification hearing in this matter pursuant to R.C. 2152.84.

Therefore, the ORDER OF THE COURT IS AS FOLLOWS:

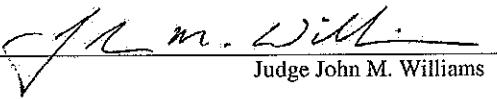
Based upon an independent review of the objected matters, the Objections to the Magistrate's Decision dated January 30, 2017, and filed by R. B. through counsel, on January 30, 2017, are denied. The Magistrate's Decision dated January 30, 2017, is accepted and adopted as the judgment of the Court.

THE COURT FURTHER ORDERS:

The Assistant Prosecuting Attorney and the Attorneys for R. B. shall have access to review the defendant's Altercrest records. The records shall not be reproduced. If upon review of the records either party desires a copy, a motion shall be filed to that effect.

Continue for pre-trial report to 3/21/2017 at 9:30 AM Magistrate Mary T. Schulcz, L. Steffen.

Jcmr150c

  
Judge John M. Williams

Electronically Filed

Juvenile Court  
Hamilton County, Ohio  
3/6/2017 02:13 PM  
JOHN M WILLIAMS, Judge  
& Ex-Officio Clerk

Jcmr150c

# HAMILTON COUNTY JUVENILE COURT

Case No. 11-9085 X

## Order of Magistrate

IN RE:

R B 1605822


GROSS SEXUAL IMPOSITION F4 2907.05 ORC

This matter came before the Court on January 30, 2017.

Represented by Attorney Julie Kars Nessler and for the state, Assistant Prosecutors Ernest Lee and John Hatcher. Continue for a Juvenile Offender Registrant classification hearing and disposition to 3/6/2017 at 10:30 AM Magistrate Mary T. Schulcz, L. Steffen. Defense Counsel's Opposition to Motion to State's Request for a Hearing is denied. There is an opportunity for the defendant to remain in the same classification as a Sex Offender or for that classification to be removed. Given the opportunity for the defendant and the law, the End of Disposition Hearing will be held.

Probation is to release to the Defense Counsel and the State and records held regarding the sex offender assessments of the defendant. The reports are to be used to prepare for the hearing and without permission of the Court, may not be used for any other purpose.

CD # 101

  
Magistrate Mary T. Schulcz

### Motion to Set Aside Magistrate's Order

Any party may file a Motion with the Court to set aside a Magistrate's Order. The Motion shall state the moving party's reasons with particularity and shall be filed not later than 10 days after the Magistrate's Order is filed. See Juvenile Rule 40.

### Electronically Filed

Juvenile Court  
Hamilton County, Ohio  
1/30/2017 09:15 AM  
JOHN M WILLIAMS, Judge  
& Ex-Officio Clerk



\*J8739869\*  
JCMR150A.DOT

# HAMILTON COUNTY JUVENILE COURT

Case No. 11-9083 X

## Order of Magistrate

IN RE:

R

B

1605822


GROSS SEXUAL IMPOSITION F4 2907.05 ORC

This matter came before the Court on January 30, 2017.

Represented by Attorney Julie Kars Nessler and for the state, Assistant Prosecutors Ernest Lee and John Hatcher. Continue for a Juvenile Offender Registrant classification hearing and disposition to 3/6/2017 at 10:30 AM Magistrate Mary T. Schulcz, L. Steffen. Defense Counsel's Opposition to Motion to State's Request for a Hearing is denied. There is an opportunity for the defendant to remain in the same classification as a Sex Offender or for that classification to be removed. Given the opportunity for the defendant and the law, the End of Disposition Hearing will be held.

Probation is to release to the Defense Counsel and the State and records held regarding the sex offender assessments of the defendant. The reports are to be used to prepare for the hearing and without permission of the Court, may not be used for any other purpose.

CD # 101

  
Magistrate Mary T. Schulcz

### Motion to Set Aside Magistrate's Order

Any party may file a Motion with the Court to set aside a Magistrate's Order. The Motion shall state the moving party's reasons with particularity and shall be filed not later than 10 days after the Magistrate's Order is filed. See Juvenile Rule 40.

### Electronically Filed

Juvenile Court  
Hamilton County, Ohio  
1/30/2017 09:14 AM  
JOHN M WILLIAMS, Judge  
& Ex-Officio Clerk



\*J8739831\*

JCMR150A.DOT

United States Code Annotated
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Constitution of the United States
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Annotated
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Amendment V. Grand Jury; Double Jeopardy; Self-Incrimination; Due Process; Takings
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U.S.C.A. Const. Amend. V-Self-Incrimination

Amendment V. Self-Incrimination clause

Currentness

<Notes of Decisions for this clause are displayed in multiple documents. For text, historical notes, and references, see first document for Amendment V.>

No person \* \* \* shall be compelled in any criminal case to be a witness against himself, \* \* \*

<Historical notes and references are included in the full text document for this amendment.>

<For Notes of Decisions, see separate documents for clauses of this amendment:>

<USCA Const. Amend. V--Grand Jury clause>

<USCA Const. Amend. V--Double Jeopardy clause>

<USCA Const. Amend. V--Self-Incrimination clause>

<USCA Const. Amend. V-- Due Process clause>

<USCA Const. Amend. V--Takings clause>

Notes of Decisions (2586)

U.S.C.A. Const. Amend. V-Self-Incrimination, USCA CONST Amend. V-Self-Incrimination  
Current through P.L. 116-140.

End of Document

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United States Code Annotated

Constitution of the United States

Annotated

Amendment XIV. Citizenship; Privileges and Immunities; Due Process; Equal Protection;  
Apportionment of Representation; Disqualification of Officers; Public Debt; Enforcement

U.S.C.A. Const. Amend. XIV-Full Text

AMENDMENT XIV. CITIZENSHIP; PRIVILEGES AND IMMUNITIES; DUE  
PROCESS; EQUAL PROTECTION; APPOINTMENT OF REPRESENTATION;  
DISQUALIFICATION OF OFFICERS; PUBLIC DEBT; ENFORCEMENT

Currentness

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Section 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

<Section 1 of this amendment is further displayed in separate documents according to subject matter,>

<see USCA Const Amend. XIV, § 1.-Citizens>

AMENDMENT XIV. CITIZENSHIP; PRIVILEGES AND..., USCA CONST Amend...

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<see USCA Const Amend. XIV, § 1-Privileges>

<see USCA Const Amend. XIV, § 1-Due Proc>

<see USCA Const Amend. XIV, § 1-Equal Protect>

<sections 2 to 5 of this amendment are displayed as separate documents,>

<see USCA Const Amend. XIV, § 2,>

<see USCA Const Amend. XIV, § 3,>

<see USCA Const Amend. XIV, § 4,>

<see USCA Const Amend. XIV, § 5,>

U.S.C.A. Const. Amend. XIV-Full Text, USCA CONST Amend. XIV-Full Text  
Current through P.L. 115-196.

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End of Document

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Baldwin's Ohio Revised Code Annotated
Constitution of the State of Ohio
Article I. Bill of Rights (Refs & Annos)

OH Const. Art. I, § 10

O Const I Sec. 10 Rights of criminal defendants

Currentness

(Article I, Sec. 1 to Article I, Sec. 9)

<Notes of Decisions for O Const I Sec. 10 are displayed in two separate documents. Notes of Decisions for Subdivisions I to V are contained in this document. For Notes of Decisions for Subdivisions VI to end see second document.>

Except in cases of impeachment, cases arising in the army and navy, or in the militia when in actual service in time of war or public danger, and cases involving offenses for which the penalty provided is less than imprisonment in the penitentiary, no person shall be held to answer for a capital, or otherwise infamous, crime, unless on presentment or indictment of a grand jury; and the number of persons necessary to constitute such grand jury and the number thereof necessary to concur in finding such indictment shall be determined by law. In any trial, in any court, the party accused shall be allowed to appear and defend in person and with counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face, and to have compulsory process to procure the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county in which the offense is alleged to have been committed; but provision may be made by law for the taking of the deposition by the accused or by the state, to be used for or against the accused, of any witness whose attendance can not be had at the trial, always securing to the accused means and the opportunity to be present in person and with counsel at the taking of such deposition, and to examine the witness face to face as fully and in the same manner as if in court. No person shall be compelled, in any criminal case, to be a witness against himself; but his failure to testify may be considered by the court and jury and may be the subject of comment by counsel. No person shall be twice put in jeopardy for the same offense.

#### CREDIT(S)

(1912 constitutional convention, am. eff. 1-1-13; 1851 constitutional convention, adopted eff. 9-1-1851)

Notes of Decisions (6342)

Const. Art. I, § 10, OH CONST Art. I, § 10  
Current through File 30 of the 133rd General Assembly (2019-2020).

End of Document

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Baldwin's Ohio Revised Code Annotated  
Constitution of the State of Ohio  
Article I. Bill of Rights (Refs & Annos)

OH Const, Art. I, § 16

O Const I Sec. 16 Redress for injury; due process

Currentness

All courts shall be open, and every person, for an injury done him in his land, goods, person, or reputation, shall have remedy by due course of law, and shall have justice administered without denial or delay. Suits may be brought against the state, in such courts and in such manner, as may be provided by law.

CREDIT(S)

(1912 constitutional convention, am. eff. 1-1-1913; 1851 constitutional convention, adopted eff. 9-1-1851)

Notes of Decisions (5266)

Const. Art. I, § 16, OH CONST Art. I, § 16

Current through File 75, 77 to 81, 83 and 84 of the 132nd General Assembly (2017-2018), 2017 State Issue 1, and 2018 State Issue 1.

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Baldwin's Ohio Revised Code Annotated  
Constitution of the State of Ohio  
Article IV. Judicial (Refs & Annos)

OH Const. Art. IV, § 1

O Const IV Sec. 1 Judicial power vested in courts

Currentness

The judicial power of the state is vested in a supreme court, courts of appeals, courts of common pleas and divisions thereof, and such other courts inferior to the supreme court as may from time to time be established by law.

CREDIT(S)

(1973 SJR 30, am. eff. 11-6-73; 132 v HJR 42, am. eff. 5-7-68; 1912 constitutional convention, am. eff. 1-1-13; 80 v 382, am. eff. 10-9-1883; 1851 constitutional convention, adopted eff. 9-1-1851)

Notes of Decisions (293)

Const. Art. IV, § 1, OH CONST Art. IV, § 1

Current through File 75, 77 to 81, 83 and 84 of the 132nd General Assembly (2017-2018), 2017 State Issue 1, and 2018 State Issue 1.

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Baldwin's Ohio Revised Code Annotated Rules of Juvenile Procedure (Refs & Annos)
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Juv. R. Rule 2

Juv R 2 Definitions

Currentness

As used in these rules:

(A) "Abused child" has the same meaning as in section 2151.031 of the Revised Code.

(B) "Adjudicatory hearing" means a hearing to determine whether a child is a juvenile traffic offender, delinquent, unruly, abused, neglected, or dependent or otherwise within the jurisdiction of the court.

(C) "Agreement for temporary custody" means a voluntary agreement that is authorized by section 5103.15 of the Revised Code and transfers the temporary custody of a child to a public children services agency or a private child placing agency.

(D) "Child" has the same meaning as in sections 2151.011 and 2152.02 of the Revised Code.

(E) "Chronic truant" has the same meaning as in section 2151.011 of the Revised Code.

(F) "Complaint" means the legal document that sets forth the allegations that form the basis for juvenile court jurisdiction.

(G) "Court proceeding" means all action taken by a court from the earlier of (1) the time a complaint is filed and (2) the time a person first appears before an officer of a juvenile court until the court relinquishes jurisdiction over such child.

(H) "Custodian" means a person who has legal custody of a child or a public children's services agency or private child-placing agency that has permanent, temporary, or legal custody of a child.

(I) "Delinquent child" has the same meaning as in section 2152.02 of the Revised Code.

(J) "Dependent child" has the same meaning as in section 2151.04 of the Revised Code.

(K) "Detention" means the temporary care of children in restricted facilities pending court adjudication or disposition.

(L) "Detention hearing" means a hearing to determine whether a child shall be held in detention or shelter care prior to or pending execution of a final dispositional order.

(M) "Dispositional hearing" means a hearing to determine what action shall be taken concerning a child who is within the jurisdiction of the court.

(N) "Guardian" means a person, association, or corporation that is granted authority by a probate court pursuant to Chapter 2111 of the Revised Code to exercise parental rights over a child to the extent provided in the court's order and subject to the residual parental rights of the child's parents.

(O) "Guardian ad litem" means a person appointed to protect the interests of a party in a juvenile court proceeding.

(P) "Habitual truant" has the same meaning as in section 2151.011 of the Revised Code.

(Q) "Hearing" means any portion of a juvenile court proceeding before the court, whether summary in nature or by examination of witnesses.

(R) "Indigent person" means a person who, at the time need is determined, is unable by reason of lack of property or income to provide for full payment of legal counsel and all other necessary expenses of representation.

(S) "Juvenile court" means a division of the court of common pleas, or a juvenile court separately and independently created, that has jurisdiction under Chapters 2151 and 2152 of the Revised Code.

(T) "Juvenile judge" means a judge of a court having jurisdiction under Chapters 2151 and 2152 of the Revised Code.

(U) "Juvenile traffic offender" has the same meaning as in section 2151.021 of the Revised Code.

(V) "Legal custody" means a legal status that vests in the custodian the right to have physical care and control of the child and to determine where and with whom the child shall live, and the right and duty to protect, train, and discipline the child and provide the child with food, shelter, education, and medical care, all subject to any residual parental rights, privileges, and responsibilities. An individual granted legal custody shall exercise the rights and responsibilities personally unless otherwise authorized by any section of the Revised Code or by the court.

(W) "Mental examination" means an examination by a psychiatrist or psychologist.

(X) "Neglected child" has the same meaning as in section 2151.03 of the Revised Code.

(Y) "Party" means a child who is the subject of a juvenile court proceeding, the child's spouse, if any, the child's parent or parents, or if the parent of a child is a child, the parent of that parent, in appropriate cases, the child's custodian, guardian, or guardian ad litem, the state, and any other person specifically designated by the court.

(Z) "Permanent custody" means a legal status that vests in a public children's services agency or a private child-placing agency, all parental rights, duties, and obligations, including the right to consent to adoption, and divests the natural parents or adoptive parents of any and all parental rights, privileges, and obligations, including all residual rights and obligations.

(AA) "Permanent surrender" means the act of the parents or, if a child has only one parent, of the parent of a child, by a voluntary agreement authorized by section 5103.15 of the Revised Code, to transfer the permanent custody of the child to a public children's services agency or a private child-placing agency.

(BB) "Person" includes an individual, association, corporation, or partnership and the state or any of its political subdivisions, departments, or agencies.

(CC) "Physical examination" means an examination by a physician.

(DD) "Planned permanent living arrangement" means an order of a juvenile court pursuant to which both of the following apply:

(1) The court gives legal custody of a child to a public children's services agency or a private child-placing agency without the termination of parental rights;

(2) The order permits the agency to make an appropriate placement of the child and to enter into a written planned permanent living arrangement agreement with a foster care provider or with another person or agency with whom the child is placed.

(EE) "Private child-placing agency" means any association, as defined in section 5103.02 of the Revised Code that is certified pursuant to sections 5103.03 to 5103.05 of the Revised Code to accept temporary, permanent, or legal custody of children and place the children for either foster care or adoption.

(FF) "Public children's services agency" means a children's services board or a county department of human services that has assumed the administration of the children's services function proscribed by Chapter 5153 of the Revised Code.

(GG) "Removal action" means a statutory action filed by the superintendent of a school district for the removal of a child in an out-of-county foster home placement.

(HH) "Residence or legal settlement" means a location as defined by section 2151.06 of the Revised Code.

(II) "Residual parental rights, privileges, and responsibilities" means those rights, privileges, and responsibilities remaining with the natural parent after the transfer of legal custody of the child, including but not limited to the privilege of reasonable visitation, consent to adoption, the privilege to determine the child's religious affiliation, and the responsibility for support.

(JJ) "Rule of court" means a rule promulgated by the Supreme Court or a rule concerning local practice adopted by another court that is not inconsistent with the rules promulgated by the Supreme Court and that is filed with the Supreme Court.

(KK) "Serious youthful offender" means a child eligible for sentencing as described in sections 2152.11 and 2152.13 of the Revised Code.

(LL) "Serious youthful offender proceedings" means proceedings after a probable cause determination that a child is eligible for sentencing as described in sections 2152.11 and 2152.13 of the Revised Code. Serious youthful offender proceedings cease to be serious youthful offender proceedings once a child has been determined by the trier of fact not to be a serious youthful offender or the juvenile judge has determined not to impose a serious youthful offender disposition on a child eligible for discretionary serious youthful offender sentencing.

(MM) "Shelter care" means the temporary care of children in physically unrestricted facilities, pending court adjudication or disposition.

(NN) "Social history" means the personal and family history of a child or any other party to a juvenile proceeding and may include the prior record of the person with the juvenile court or any other court.

(OO) "Temporary custody" means legal custody of a child who is removed from the child's home, which custody may be terminated at any time at the discretion of the court or, if the legal custody is granted in an agreement for temporary custody, by the person or persons who executed the agreement.

(PP) "Unruly child" has the same meaning as in section 2151.022 of the Revised Code.

(QQ) "Ward of court" means a child over whom the court assumes continuing jurisdiction.

**CREDIT(S)**

(Adopted eff. 7-1-72; amended eff. 7-1-94, 7-1-98, 7-1-01, 7-1-02)

Juvenile Procedure, Rule 2, OH ST JUV P Rule 2  
Current with amendments received through January 1, 2018.

Baldwin's Ohio Revised Code Annotated
Rules of Juvenile Procedure (Refs & Annos)

Juv. R. Rule 27

Juv R 27 Hearings: general

Currentness

**(A) General Provisions.** Unless otherwise stated in this rule, the juvenile court may conduct its hearings in an informal manner and may adjourn its hearings from time to time.

The court may excuse the attendance of the child at the hearing in neglect, dependency, or abuse cases.

(1) *Public Access to Hearings.* In serious youthful offender proceedings, hearings shall be open to the public. In all other proceedings, the court may exclude the general public from any hearing, but may not exclude either of the following:

(a) persons with a direct interest in the case;

(b) persons who demonstrate, at a hearing, a countervailing right to be present.

(2) *Separation of Juvenile and Adult Cases.* Cases involving children shall be heard separate and apart from the trial of cases against adults, except for cases involving chronic or habitual truancy.

(3) *Jury Trials.* The court shall hear and determine all cases of children without a jury, except for the adjudication of a serious youthful offender complaint, indictment, or information in which trial by jury has not been waived.

**(B) Special Provisions for Abuse, Neglect, and Dependency Proceedings.**

(1) In any proceeding involving abuse, neglect, or dependency at which the court removes a child from the child's home or continues the removal of a child from the child's home, or in a proceeding where the court orders detention, the court shall determine whether the person who filed the complaint in the case and removed the child from the child's home has custody of the child or will be given custody and has made reasonable efforts to do any of the following:



(a) Prevent the removal of the child from the child's home;

(b) Eliminate the continued removal of the child from the child's home;

(c) Make it possible for the child to return home.

(2) In a proceeding involving abuse, neglect, or dependency, the examination made by the court to determine whether a child is a competent witness shall comply with all of the following:

(a) Occur in an area other than a courtroom or hearing room;

(b) Be conducted in the presence of only those individuals considered necessary by the court for the conduct of the examination or the well being of the child;

(c) Be recorded in accordance with Juv. R. 37 or Juv. R. 40. The court may allow the prosecutor, guardian ad litem, or attorney for any party to submit questions for use by the court in determining whether the child is a competent witness.

(3) In a proceeding where a child is alleged to be an abused child, the court may order that the testimony of the child be taken by deposition in the presence of a judge or a magistrate. On motion of the prosecuting attorney, guardian ad litem, or a party, or in its own discretion, the court may order that the deposition be videotaped. All or part of the deposition is admissible in evidence where all of the following apply:

(a) It is filed with the clerk;

(b) Counsel for all parties had an opportunity and similar motive at the time of the taking of the deposition to develop the testimony by direct, cross, or redirect examination;

(c) The judge or magistrate determines there is reasonable cause to believe that if the child were to testify in person at the hearing, the child would experience emotional trauma as a result of the child's participation at the hearing.

**CREDIT(S)**

(Adopted eff. 7-1-72; amended eff. 7-1-76, 7-1-94, 7-1-96, 7-1-01)

**STAFF NOTES**

**2001:**

**Rule 27(A) General provisions**

Rule 27(A) was completely rewritten and reorganized to conform to changes necessitated by Sub. Sen. Bill 179 (serious youthful offenders) (effective date January 1, 2002), and Sub. Sen. Bill 181 (chronic and habitual truants) (effective date September 4, 2000).

Rule 27(A) as amended deals separately with the informality of hearings [division (A)], public access to hearings [division (A)(1)], separation of juvenile and adult cases [division (A)(2)], and jury trials [division (A)(3)].

Division (A)(1) clarifies that in serious youthful offender proceedings, adult rules about public access shall apply, and thus a qualified presumption of public access is appropriate. The rule seeks to conform to the Supreme Court's ruling in *State ex rel. New World Communications of Ohio, Inc. v. Geauga County Court of Common Pleas, Juvenile Division* (2000), 90 Ohio St. 3d 79, 734 N.E.2d 1214. In juvenile proceedings, there is no qualified right of public access, and no presumption that the proceedings be either open or closed. The amended rule recognizes that the policies of confidentiality and rehabilitation important in juvenile proceedings may justify closure to those without a direct interest after a hearing. In that hearing, the party seeking closure bears the burden of proof, but Rule 27(A)(1)(b) clarifies that closure is justified unless there is a "comparable competing interest" for public access, which the rule describes as a countervailing right. The amendment also conforms to Revised Code section 2151.35 (A) as amended by Sub. Sen. Bill 179.

Rule 27(A)(2) conforms to Revised Code section 2151.35 (A)(1), which provides that in cases in which both a child and an adult are charged for chronic or habitual truancy, the cases need not be heard separately, while preserving separate proceedings in all other cases.

Rule 27(A)(3) conforms to Revised Code section 2152.13(D) providing for a jury determination in cases seeking a serious youthful offender dispositional sentence, while preserving nonjury proceedings in all other cases.

**Rule 27(B) Special Provisions for Abuse, Neglect, and Dependency Proceedings**

Rule 27(B) was not amended, but was recaptioned to clarify that its provisions apply to abuse, neglect and dependency proceedings.

**1996:**

The amendment changed the rule's reference from "referee" to "magistrate" in division (B)(3) and (B)(3)(c) in order to harmonize the rule with the language adopted in the 1995 amendments to Juv. R. 40. The amendment is technical only and no substantive change is intended.

1994:

### Rule 27 Hearings: General

S.B. 89 set forth several additional criteria to be observed in the course of hearings in juvenile court. The revisions to Juv. R. 27 reflect the general policy of that legislation to protect children and to assure that all reasonable measures have been taken to keep children with their original families.

Juv. R. 27(B)(1) specifies the “reasonable efforts” determination necessary to assure that, as much as possible, children can remain with their families or return to them without undue trauma. Revised Code 2151.419.

Juv. R. 27(B)(1)<sup>1</sup> sets forth the requirements of the court’s determination as to whether a child is a competent witness. Revised Code 2317.01.

Juv. R. 27(B)(3) details a procedure to permit a child’s testimony to be taken by deposition in the presence of a judge or a referee. Revised Code 2151.35(G).

Notes of Decisions (26)

### Footnotes

<sup>1</sup>

So in original; should this read “Juv. R. 27(B)(2)”

Juvenile Procedure, Rule 27, OH ST JUV P Rule 27  
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Baldwin's Ohio Revised Code Annotated
Rules of Juvenile Procedure (Refs & Annos)

Juv. R. Rule 34

Juv R 34 Dispositional hearing

Currentness

**(A) Scheduling the Hearing.** Where a child has been adjudicated as an abused, neglected, or dependent child, the court shall not issue a dispositional order until after it holds a separate dispositional hearing. The dispositional hearing for an adjudicated abused, neglected, or dependent child shall be held at least one day but not more than thirty days after the adjudicatory hearing is held. The dispositional hearing may be held immediately after the adjudicatory hearing if all parties were served prior to the adjudicatory hearing with all documents required for the dispositional hearing and all parties consent to the dispositional hearing being held immediately after the adjudicatory hearing. Upon the request of any party or the guardian ad litem of the child, the court may continue a dispositional hearing for a reasonable time not to exceed the time limit set forth in this division to enable a party to obtain or consult counsel. The dispositional hearing shall not be held more than ninety days after the date on which the complaint in the case was filed. If the dispositional hearing is not held within this ninety day period of time, the court, on its own motion or the motion of any party or the guardian ad litem of the child, shall dismiss the complaint without prejudice.

In all other juvenile proceedings, the dispositional hearing shall be held pursuant to Juv. R. 29(F)(2)(a) through (d) and the ninety day requirement shall not apply. Where the dispositional hearing is to be held immediately following the adjudicatory hearing, the court, upon the request of any party, shall continue the hearing for a reasonable time to enable the party to obtain or consult counsel.

**(B) Hearing Procedure.** The hearing shall be conducted in the following manner:

- (1) The judge or magistrate who presided at the adjudicatory hearing shall, if possible, preside;
- (2) Except as provided in division (I) of this rule, the court may admit evidence that is material and relevant, including, but not limited to, hearsay, opinion, and documentary evidence;
- (3) Medical examiners and each investigator who prepared a social history shall not be cross-examined, except upon consent of all parties, for good cause shown, or as the court in its discretion may direct. Any party may offer evidence supplementing, explaining, or disputing any information contained in the social history or other reports that may be used by the court in determining disposition.

(4) To the extent required by Article I, Section 10a of the Ohio Constitution or by the Revised Code, before disposition, the trial court shall allow an alleged victim of a crime to be heard.

**(C) Judgment.** After the conclusion of the hearing, the court shall enter an appropriate judgment within seven days. A copy of the judgment shall be given to any party requesting a copy. In all cases where a child is placed on probation, the child shall receive a written statement of the conditions of probation. If the judgment is conditional, the order shall state the conditions. If the child is not returned to the child's home, the court shall determine the school district that shall bear the cost of the child's education and may fix an amount of support to be paid by the responsible parent or from public funds.

**(D) Dispositional Orders.** If a child is adjudicated an abused, neglected, or dependent child, the court may make any of the following orders of disposition:

(1) Place the child in protective supervision;

(2) Commit the child to the temporary custody of a public or private agency, either parent, a relative residing within or outside the state, or a probation officer for placement in a certified foster home or approved foster care;

(3) Award legal custody of the child to either parent or to any other person who, prior to the dispositional hearing, files a motion requesting legal custody;

(4) Commit the child to the permanent custody of a public or private agency, if the court determines that the child cannot be placed with one of the child's parents within a reasonable time or should not be placed with either parent and determines that the permanent commitment is in the best interest of the child;

(5) Place the child in a planned permanent living arrangement with a public children services agency or private child placing agency, if a public children services agency or private child placing agency requests the court to place the child in a planned permanent living arrangement and if the court finds, by clear and convincing evidence, that a planned permanent living arrangement is in the best interest of the child, that the child is sixteen years of age or older, and that one of the following exists:

(a) The child, because of physical, mental, or psychological problems or needs, is unable to function in a family-like setting and must remain in residential or institutional care now and for the foreseeable future beyond the date of the dispositional hearing held pursuant to R.C. 2151.35;

(b) The parents of the child have significant physical, mental, or psychological problems and are unable to care for the child because of those problems, adoption is not in the best interest of the child and the child, as determined in accordance with R.C. 2151.414(D)(1), retains a significant and positive relationship with a parent or relative;

(c) The child has been counseled on the permanent placement options available to the child and is unwilling to accept or unable to adapt to a permanent placement.

**(E) Protective Supervision.** If the court issues an order for protective supervision, the court may place any reasonable restrictions upon the child, the child's parents, guardian, or any other person including, but not limited to, any of the following:

- (1) Ordering a party within forty-eight hours to vacate the child's home indefinitely or for a fixed period of time;
- (2) Ordering a party, parent, or custodian to prevent any particular person from having contact with the child;
- (3) Issuing a restraining order to control the conduct of any party.

**(F) Case Plan.** As part of its dispositional order, the court shall journalize a case plan for the child. The agency required to maintain a case plan shall file the case plan with the court prior to the child's adjudicatory hearing but not later than thirty days after the earlier of the date on which the complaint in the case was filed or the child was first placed in shelter care. The plan shall specify what additional information, if any, is necessary to complete the plan and how the information will be obtained. All parts of the case plan shall be completed by the earlier of thirty days after the adjudicatory hearing or the date of the dispositional hearing for the child. If all parties agree to the content of the case plan and the court approves it, the court shall journalize the plan as part of its dispositional order. If no agreement is reached, the court, based upon the evidence presented at the dispositional hearing and the best interest of the child, shall determine the contents of the case plan and journalize it as part of the dispositional order for the child.

**(G) Modification of Temporary Order.** The department of human services or any other public or private agency or any party, other than a parent whose parental rights have been terminated, may at any time file a motion requesting that the court modify or terminate any order of disposition. The court shall hold a hearing upon the motion as if the hearing were the original dispositional hearing and shall give all parties and the guardian ad litem notice of the hearing pursuant to these rules. The court, on its own motion and upon proper notice to all parties and any interested agency, may modify or terminate any order of disposition.

**(H) Restraining Orders.** In any proceeding where a child is made a ward of the court, the court may grant a restraining order controlling the conduct of any party if the court finds that the order is necessary to control any conduct or relationship that may be detrimental or harmful to the child and tend to defeat the execution of a dispositional order.

**(I) Bifurcation; Rules of Evidence.** Hearings to determine whether temporary orders regarding custody should be modified to orders for permanent custody shall be considered dispositional hearings and need not be bifurcated. The Rules of Evidence shall apply in hearings on motions for permanent custody.

**(J) Advisement of Rights After Hearing.** At the conclusion of the hearing, the court shall advise the child of the child's right to record expungement and, where any part of the proceeding was contested, advise the parties of their right to appeal.

**CREDIT(S)**

(Adopted eff. 7-1-72; amended eff. 7-1-94, 7-1-96, 7-1-02, 7-1-18, 7-1-19)

**STAFF NOTES**

**2018:**

**Division (D)(5): Placement in planned permanent living arrangement.**

Division (D)(5) is amended to incorporate the amendments to R.C. 2151.353(A)(5) effective September 17, 2014.

**2002:**

**Juvenile Rule 34(D) Dispositional orders**

The July 1, 2002, amendment to Juv. R. 34(D)(5) substituted the language of "planned permanent living arrangement" for the former language of "long term foster care," to conform to the new legislative designation for these child-placing arrangements.

The amendment to Juv. R. 34(D)(5) conforms to section 2151.353(A)(5) of the Revised Code. Juvenile Rules 2, 10, and 15 also were amended effective July 1, 2002 to reflect this change in terminology.

**1996:**

The amendment changed the rule's reference from "referee" to "magistrate" in division (B)(1) in order to harmonize the rule with the language adopted in the 1995 amendments to Juv. R. 40. The amendment is technical only and no substantive change is intended.

**1994:**

Rule 34 Dispositional Hearing

Changes in Juv. R. 34 now bring the rule into conformity with Revised Code 2151.35 as amended by S.B. 89.

## Juv R 34 Dispositional hearing, OH ST JUV P Rule 34

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Juv. R. 34(A) delineates the ninety day deadline for dispositional hearings in abuse, neglect, and dependency cases and clarifies that the ninety day rule does not apply in unruly and delinquency cases. Revised Code 2151.35(B)(1)

Juv. R. 34(B)(1) specifies that the judge or referee who presided at the adjudicatory hearing shall, if possible, preside at the dispositional hearing. Revised Code 2151.35(B)(2)(a).

Juv. R. 34(D) restates the dispositional alternatives for an adjudicated abused, neglected, or dependent child as set forth in Revised Code 2151.353(A)(1), (2), (3), (4), and (5).

Juv. R. 34(F) sets forth the utilization of the case plan as part of the dispositional order and restates the provisions of Revised Code 2151.353(D) and 2151.412.

Juv. R. 34(G) restates Revised Code 2151.353(E) regarding the procedure for modifying a temporary order.

Juv. R. 34(I) is new and attempts to eliminate the need to bifurcate a motion for permanent custody into adjudicatory and dispositional hearings. A good explanation of the state of current case law in appellate courts in Ohio on the subject of bifurcation is found in *In the Matter of Amy Lyons, Alleged Dependent Child*, No. 1411 (4th District Court of Appeals of Ohio, Ross County, decided August 11, 1987). A concurring opinion states:

“There is a conflict in Ohio law as to whether hearings for permanent custody under Revised Code 2151.414 must be bifurcated into separate adjudicatory and dispositional stages. Kurtz and Giannelli, *Ohio Juvenile Law* (1985), T 13.04(D)(5). The Third and Twelfth District Courts of Appeals have held that Juv. R. 29 and Juv. R. 34 control over R.C. 2151.414 to require a bifurcated hearing. *In re Vickers Children* (1983), 14 Ohio App. 3d 210; *In re Lucas* (1985), 29 Ohio App. 3d 165.<sup>1</sup> However, the Eighth District Court of Appeals has held that only one hearing which is purely adjudicatory is required and that, contrary to *Vickers, supra*, there is no conflict between R.C. 2151.414 and the applicable Juvenile Rules.

“By contrast, however, in the case at bar, there is no dispositional option. Either the motion is granted, in which case the mother’s parental rights are terminated, or else the motion is denied. The single hearing prescribed by R.C. 2151.414 is purely adjudicatory. The foregoing analysis is consistent with Juv. R. 2(1), which states:

“Adjudicatory hearing” means a hearing to determine whether a child is a juvenile traffic offender, delinquent, unruly, neglected, or dependent or otherwise within the jurisdiction of the court or whether temporary legal custody should be converted to permanent custody.

“Consequently, this court holds that the juvenile court did not err in failing to bifurcate the permanent custody hearing into separate adjudicatory and dispositional stages.” *In re Jones* (1985), 29 Ohio App. 3d 176, 179.

“Although permanent custody is clearly a dispositional order, Juv. R. 2(1)’s definition of “adjudicatory hearing” appears sufficiently broad to require only one hearing or one “stage”. See Kurtz and Giannelli, *Ohio Juvenile Law* (1985), T 13.04, p. 164 at fn. 155. When a permanent custody motion is filed pursuant to R.C. 2151.414, unlike an original disposition pursuant to R.C. 2151.353(A), there is no dispositional option in that the trial court, as the majority opinion notes, can only either terminate parental rights by granting the permanent custody motion or not terminate parental rights by overruling the



permanent custody motion. *Jones, supra*; Juv. R. 2(1).

“Assuming, arguendo, that pursuant to *Vickers* and *Lucas, supra*, a bifurcated hearing was required herein, any error was waived by the failure of appellate to object to the lack of such bifurcation below. *Jones, supra* at p. 179; *Vickers, supra*. Accordingly, I concur in the judgment.”

Because the cases cited seemed to interpret the need for bifurcation based upon the current Juvenile Rules, Juv. R. 34(I) now seeks to clarify that the need to bifurcate a permanent custody hearing is unnecessary.

<sup>1</sup> A motion to certify the record in *Lucas, supra*, to the Supreme Court of Ohio was overruled on May 21, 1986.

Notes of Decisions (97)

Juvenile Procedure, Rule 34, OH ST JUV P Rule 34  
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Baldwin's Ohio Revised Code Annotated Rules of Juvenile Procedure (Refs & Annos)
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Juv. R. Rule 35

Juv R 35 Proceedings after judgment

Currentness

(A) **Continuing Jurisdiction; Invoked by Motion.** The continuing jurisdiction of the court shall be invoked by motion filed in the original proceeding, notice of which shall be served in the manner provided for the service of process.

(B) **Revocation of Probation.** The court shall not revoke probation except after a hearing at which the child shall be present and apprised of the grounds on which revocation is proposed. The parties shall have the right to counsel and the right to appointed counsel where entitled pursuant to Juv. R. 4(A). Probation shall not be revoked except upon a finding that the child has violated a condition of probation of which the child had, pursuant to Juv. R. 34(C), been notified.

(C) **Detention.** During the pendency of proceedings under this rule, a child may be placed in detention in accordance with the provisions of Rule 7.

**CREDIT(S)**

(Adopted eff. 7-1-72; amended eff. 7-1-94)

Juvenile Procedure, Rule 35, OH ST JUV P Rule 35

Current with amendments received through January 1, 2018.

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Juv. R. Rule 40

Juv R 40 Magistrates

Currentness

(A) *Appointment.* The court may appoint one or more magistrates who shall have been engaged in the practice of law for at least four years and be in good standing with the Supreme Court of Ohio at the time of appointment. A magistrate appointed under this rule also may serve as a magistrate under Crim. R. 19. The court shall not appoint as a magistrate any person who has contemporaneous responsibility for working with, or supervising the behavior of, children who are subject to dispositional orders of the appointing court or any other juvenile court.

(B) *Compensation.* The compensation of magistrates shall be fixed by the court, and no part of the compensation shall be taxed as costs.

(C) *Authority.*

(1) *Scope.* To assist juvenile courts of record and pursuant to reference under Juv.R. 40(D)(1), magistrates are authorized, subject to the terms of the relevant reference, to do any of the following:

(a) Determine any motion in any case, except a case involving the determination of a child's status as a serious youthful offender;

(b) Conduct the trial of any case that will not be tried to a jury, except the adjudication of a case against an alleged serious youthful offender;

(c) Exercise any other authority specifically vested in magistrates by statute and consistent with this rule.

(2) *Regulation of Proceedings.* In performing the responsibilities described in Juv. R. 40(C)(1), magistrates are authorized, subject to the terms of the relevant reference, to regulate all proceedings as if by the court and to do everything necessary for the efficient performance of those responsibilities, including but not limited to, the following:

(a) Issuing subpoenas for the attendance of witnesses and the production of evidence;

(b) Ruling upon the admissibility of evidence;

(c) Putting witnesses under oath and examining them;

(d) Calling the parties to the action and examining them under oath;

(e) When necessary to obtain the presence of an alleged contemnor in cases involving direct or indirect contempt of court, issuing an attachment for the alleged contemnor and setting the type, amount, and any conditions of bail pursuant to Crim.R. 46;

(f) Imposing, subject to Juv.R. 40(D)(8), appropriate sanctions for civil or criminal contempt committed in the presence of the magistrate.

**(D) Proceedings in Matters Referred to Magistrates.**

**(1) *Reference by Court of Record.***

(a) **Purpose and Method.** A court may, for one or more of the purposes described in Juv.R. 40(C)(1), refer a particular case or matter or a category of cases or matters to a magistrate by a specific or general order of reference or by rule.

(b) **Limitation.** A court may limit a reference by specifying or limiting the magistrate's powers, including but not limited to, directing the magistrate to determine only particular issues, directing the magistrate to perform particular responsibilities, directing the magistrate to receive and report evidence only, fixing the time and place for beginning and closing any hearings, or fixing the time for filing any magistrate's decision on the matter or matters referred.

**(2) *Magistrate's Order; Motion to Set Aside Magistrate's Order.***

**(a) Magistrate's Order.**

(i) **Nature of Order.** Subject to the terms of the relevant reference, a magistrate may enter orders without judicial approval if necessary to regulate the proceedings and if not dispositive of a claim or defense of a party.

(ii) **Form, Filing, and Service of Magistrate's Order.** A magistrate's order shall be in writing, identified as a magistrate's order in the caption, signed by the magistrate, filed with the clerk, and served on all parties or their attorneys.

(iii) ***Magistrate's Order Include.*** A magistrate's order includes any of the following:

(A) Pretrial proceedings under Civ.R. 16;

(B) Discovery proceedings under Civ.R. 26 to 37, Juv.R. 24, and Juv.R. 25;

(C) Appointment of an attorney or guardian ad litem pursuant to Juv.R. 4 and Juv.R. 29(B)(4);

- (D) Taking a child into custody pursuant to Juv.R. 6;
- (E) Detention hearings pursuant to Juv.R. 7;
- (F) Temporary orders pursuant to Juv.R. 13;
- (G) Extension of temporary orders pursuant to Juv.R. 14;
- (H) Summons and warrants pursuant to Juv.R. 15;
- (I) Preliminary conferences pursuant to Juv.R. 21;
- (J) Continuances pursuant to Juv.R. 23;
- (K) Deposition orders pursuant to Juv.R. 27(B)(3);
- (L) Orders for social histories, physical and mental examinations pursuant to Juv.R. 32;
- (M) Proceedings upon application for the issuance of a temporary protection order as authorized by law;
- (N) Other orders as necessary to regulate the proceedings.

(b) *Motion to Set Aside Magistrate's Order.* Any party may file a motion with the court to set aside a magistrate's order. The motion shall state the moving party's reasons with particularity and shall be filed not later than ten days after the magistrate's order is filed. The pendency of a motion to set aside does not stay the effectiveness of the magistrate's order, though the magistrate or the court may by order stay the effectiveness of a magistrate's order.

(3) *Magistrate's Decision; Objections to Magistrate's Decision.*

(a) *Magistrate's Decision.*

(i) *When Required.* Subject to the terms of the relevant reference, a magistrate shall prepare a magistrate's decision respecting any matter referred under Juv.R. 40(D)(1).

(ii) *Findings of Fact and Conclusions of Law.* Subject to the terms of the relevant reference, a magistrate's decision may be general unless findings of fact and conclusions of law are timely requested by a party or otherwise required by law. A request for findings of fact and conclusions of law shall be made before the entry of a magistrate's decision

or within seven days after the filing of a magistrate's decision, If a request for findings of fact and conclusions of law is timely made, the magistrate may require any or all of the parties to submit proposed findings of fact and conclusions of law.

(iii) *Form; Filing, and Service of Magistrate's Decision.* A magistrate's decision shall be in writing, identified as a magistrate's decision in the caption, signed by the magistrate, filed with the clerk, and served on all parties or their attorneys no later than three days after the decision is filed. A magistrate's decision shall indicate conspicuously that a party shall not assign as error on appeal the court's adoption of any factual finding or legal conclusion, whether or not specifically designated as a finding of fact or conclusion of law under Juv.R. 40(D)(3)(a)(ii), unless the party timely and specifically objects to that factual finding or legal conclusion as required by Juv.R. 40(D)(3)(b).

(b) *Objections to Magistrate's Decision.*

(i) *Time for Filing.* A party may file written objections to a magistrate's decision within fourteen days of the filing of the decision, whether or not the court has adopted the decision during that fourteen-day period as permitted by Juv.R. 40(D)(4)(e)(i). If any party timely files objections, any other party may also file objections not later than ten days after the first objections are filed. If a party makes a timely request for findings of fact and conclusions of law, the time for filing objections begins to run when the magistrate files a decision that includes findings of fact and conclusions of law.

(ii) *Specificity of Objection.* An objection to a magistrate's decision shall be specific and state with particularity all grounds for objection.

(iii) *Objection to Magistrate's Factual Finding; Transcript or Affidavit.* An objection to a factual finding, whether or not specifically designated as a finding of fact under Juv.R. 40(D)(3)(a)(ii), shall be supported by a transcript of all the evidence submitted to the magistrate relevant to that finding or an affidavit of that evidence if a transcript is not available. With leave of court, alternative technology or manner of reviewing the relevant evidence may be considered. The objecting party shall file the transcript or affidavit with the court within thirty days after filing objections unless the court extends the time in writing for preparation of the transcript or other good cause. If a party files timely objections prior to the date on which a transcript is prepared, the party may seek leave of court to supplement the objections.

(iv) *Waiver of Right to Assign Adoption by Court as Error on Appeal.* Except for a claim of plain error, a party shall not assign as error on appeal the court's adoption of any factual finding or legal conclusion, whether or not specifically designated as a finding of fact or conclusion of law under Juv.R. 40(D)(3)(a)(ii), unless the party has objected to that finding or conclusion as required by Juv.R. 40(D)(3)(b).

(A) *Action of Court on Magistrate's Decision and on Any Objections to Magistrate's Decision; Entry of Judgment or Interim Order by Court.*

(a) *Action of Court Required.* A magistrate's decision is not effective unless adopted by the court.

(b) *Action on Magistrate's Decision.* Whether or not objections are timely filed, a court may adopt or reject a magistrate's decision in whole or in part, with or without modification. A court may hear a previously-referred matter, take additional evidence, or return a matter to a magistrate.

(c) *If No Objections Are Filed.* If no timely objections are filed, the court may adopt a magistrate's decision, unless it determines that there is an error of law or other defect evident on the face of the magistrate's decision.

(d) *Action on Objections.* If one or more objections to a magistrate's decision are timely filed, the court shall rule on those objections. In ruling on objections, the court shall undertake an independent review as to the objected matters to ascertain that the magistrate has properly determined the factual issues and appropriately applied the law. Before so ruling, the court may hear additional evidence but may refuse to do so unless the objecting party demonstrates that the party could not, with reasonable diligence, have produced that evidence for consideration by the magistrate.

(e) *Entry of Judgment or Interim Order by Court.* A court that adopts, rejects, or modifies a magistrate's decision shall also enter a judgment or interim order.

(i) *Judgment.* The court may enter a judgment either during the fourteen days permitted by Juv.R. 40(D)(3)(b)(i) for the filing of objections to a magistrate's decision or after the fourteen days have expired. If the court enters a judgment during the fourteen days permitted by Juv.R. 40(D)(3)(b)(i) for the filing of objections, the timely filing of objections to the magistrate's decision shall operate as an automatic stay of execution of the judgment until the court disposes of those objections and vacates, modifies, or adheres to the judgment previously entered.

(ii) *Interim Order.* The court may enter an interim order on the basis of a magistrate's decision without waiting for or ruling on timely objections by the parties where immediate relief is justified. The timely filing of objections does not stay the execution of an interim order, but an interim order shall not extend more than twenty-eight days from the date of entry, subject to extension by the court in increments of twenty-eight additional days for good cause shown.

(5) *Extension of Time.* For good cause shown, the court shall allow a reasonable extension of time for a party to file a motion to set aside a magistrate's order or file objections to a magistrate's decision. "Good cause" includes, but is not limited to, a failure by the clerk to timely serve the party seeking the extension with the magistrate's order or decision.

(6) *Disqualification of a Magistrate.* Disqualification of a magistrate for bias or other cause is within the discretion of the court and may be sought by motion filed with the court.

(7) *Recording of Proceedings Before a Magistrate.* Except as otherwise provided by law, all proceedings before a magistrate shall be recorded in accordance with procedures established by the court.

(8) *Contempt in the Presence of a Magistrate.*

(a) *Contempt Order.* Contempt sanctions under Juv.R. 40(C)(2)(f) may be imposed only by a written order that recites the facts and certifies that the magistrate saw or heard the conduct constituting contempt.

(b) Filing and Provision of Copies of Contempt Order. A contempt order shall be filed and copies provided forthwith by the clerk to the appropriate judge of the court and to the subject of the order.

(c) Review of Contempt Order by Court; Bail. The subject of a contempt order may by motion obtain immediate review by a judge. A judge or the magistrate entering the contempt order may set bail pending judicial review of the order.

CREDIT(S)

(Adopted eff. 7-1-72; amended eff. 7-1-75, 7-1-85, 7-1-92, 7-1-95, 7-1-98, 7-1-01, 7-1-03, 7-1-06, 7-1-11, 7-1-14)

Juvenile Procedure, Rule 40, OH ST JUV P Rule 40  
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Baldwin's Ohio Revised Code Annotated

General Provisions

Chapter 1. Definitions; Rules of Construction (Refs & Annos)

Statutory Provisions (Refs & Annos)

R.C. § 1.42

1.42 Common and technical usage

Currentness

Words and phrases shall be read in context and construed according to the rules of grammar and common usage. Words and phrases that have acquired a technical or particular meaning, whether by legislative definition or otherwise, shall be construed accordingly.

CREDIT(S)

(1971 H 607, eff. 1-3-72)

Notes of Decisions (119)

R.C. § 1.42, OH ST § 1.42

Current through File 75, 77 to 81, 83 and 84 of the 132nd General Assembly (2017-2018), 2017 State Issue 1, and 2018 State Issue 1.

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Baldwin's Ohio Revised Code Annotated Title XXI. Courts--Probate--Juvenile (Refs & Annos). Chapter 2151. Juvenile Courts--General Provisions (Refs & Annos) Construction; Definitions
--

R.C. § 2151.01

2151.01 Construction; purpose

Currentness

The sections in Chapter 2151, of the Revised Code, with the exception of those sections providing for the criminal prosecution of adults, shall be liberally interpreted and construed so as to effectuate the following purposes:

(A) To provide for the care, protection, and mental and physical development of children subject to Chapter 2151, of the Revised Code, whenever possible, in a family environment, separating the child from the child's parents only when necessary for the child's welfare or in the interests of public safety;

(B) To provide judicial procedures through which Chapters 2151, and 2152, of the Revised Code are executed and enforced, and in which the parties are assured of a fair hearing, and their constitutional and other legal rights are recognized and enforced.

CREDIT(S)

(2000 S 179, § 3, eff. 1-1-02; 1969 H 320, eff. 11-19-69)

Notes of Decisions (34)

R.C. § 2151.01, OH ST § 2151.01

Current through File 75, 77 to 81, 83 and 84 of the 132nd General Assembly (2017-2018), 2017 State Issue 1, and 2018 State Issue 1.

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Baldwin's Ohio Revised Code Annotated
Title XXI. Courts--Probate--Juvenile (Refs & Annos)
Chapter 2151. Juvenile Courts--General Provisions (Refs & Annos)
Construction; Definitions

R.C. § 2151.011

2151.011 Definitions

Effective: April 6, 2017

Currentness

(A) As used in the Revised Code:

(1) "Juvenile court" means whichever of the following is applicable that has jurisdiction under this chapter and Chapter 2152. of the Revised Code:

(a) The division of the court of common pleas specified in section 2101.022 or 2301.03 of the Revised Code as having jurisdiction under this chapter and Chapter 2152. of the Revised Code or as being the juvenile division or the juvenile division combined with one or more other divisions;

(b) The juvenile court of Cuyahoga county or Hamilton county that is separately and independently created by section 2151.08 or Chapter 2153. of the Revised Code and that has jurisdiction under this chapter and Chapter 2152. of the Revised Code;

(c) If division (A)(1)(a) or (b) of this section does not apply, the probate division of the court of common pleas.

(2) "Juvenile judge" means a judge of a court having jurisdiction under this chapter.

(3) "Private child placing agency" means any association, as defined in section 5103.02 of the Revised Code, that is certified under section 5103.03 of the Revised Code to accept temporary, permanent, or legal custody of children and place the children for either foster care or adoption.

(4) "Private noncustodial agency" means any person, organization, association, or society certified by the department of job and family services that does not accept temporary or permanent legal custody of children, that is privately operated in this

## 2151.011 Definitions, OH ST § 2151.011

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state, and that does one or more of the following:

- (a) Receives and cares for children for two or more consecutive weeks;
- (b) Participates in the placement of children in certified foster homes;
- (c) Provides adoption services in conjunction with a public children services agency or private child placing agency.

(B) As used in this chapter:

(1) “Adequate parental care” means the provision by a child’s parent or parents, guardian, or custodian of adequate food, clothing, and shelter to ensure the child’s health and physical safety and the provision by a child’s parent or parents of specialized services warranted by the child’s physical or mental needs.

(2) “Adult” means an individual who is eighteen years of age or older.

(3) “Agreement for temporary custody” means a voluntary agreement authorized by section 5103.15 of the Revised Code that transfers the temporary custody of a child to a public children services agency or a private child placing agency.

(4) “Alternative response” means the public children services agency’s response to a report of child abuse or neglect that engages the family in a comprehensive evaluation of child safety, risk of subsequent harm, and family strengths and needs and that does not include a determination as to whether child abuse or neglect occurred.

(5) “Certified foster home” means a foster home, as defined in section 5103.02 of the Revised Code, certified under section 5103.03 of the Revised Code.

(6) “Child” means a person who is under eighteen years of age, except that the juvenile court has jurisdiction over any person who is adjudicated an unruly child prior to attaining eighteen years of age until the person attains twenty-one years of age, and, for purposes of that jurisdiction related to that adjudication, a person who is so adjudicated an unruly child shall be deemed a “child” until the person attains twenty-one years of age.

(7) “Child day camp,” “child care,” “child day-care center,” “part-time child day-care center,” “type A family day-care home,” “licensed type B family day-care home,” “type B family day-care home,” “administrator of a child day-care center,” “administrator of a type A family day-care home,” and “in-home aide” have the same meanings as in section 5104.01 of the

Revised Code.

(8) "Child care provider" means an individual who is a child-care staff member or administrator of a child day-care center, a type A family day-care home, or a type B family day-care home, or an in-home aide or an individual who is licensed, is regulated, is approved, operates under the direction of, or otherwise is certified by the department of job and family services, department of developmental disabilities, or the early childhood programs of the department of education.

(9) "Commit" means to vest custody as ordered by the court.

(10) "Counseling" includes both of the following:

(a) General counseling services performed by a public children services agency or shelter for victims of domestic violence to assist a child, a child's parents, and a child's siblings in alleviating identified problems that may cause or have caused the child to be an abused, neglected, or dependent child.

(b) Psychiatric or psychological therapeutic counseling services provided to correct or alleviate any mental or emotional illness or disorder and performed by a licensed psychiatrist, licensed psychologist, or a person licensed under Chapter 4757. of the Revised Code to engage in social work or professional counseling.

(11) "Custodian" means a person who has legal custody of a child or a public children services agency or private child placing agency that has permanent, temporary, or legal custody of a child.

(12) "Delinquent child" has the same meaning as in section 2152.02 of the Revised Code.

(13) "Detention" means the temporary care of children pending court adjudication or disposition, or execution of a court order, in a public or private facility designed to physically restrict the movement and activities of children.

(14) "Developmental disability" has the same meaning as in section 5123.01 of the Revised Code.

(15) "Differential response approach" means an approach that a public children services agency may use to respond to accepted reports of child abuse or neglect with either an alternative response or a traditional response.

(16) "Foster caregiver" has the same meaning as in section 5103.02 of the Revised Code.

## 2151.011 Definitions, OH ST § 2151.011

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(17) “Guardian” means a person, association, or corporation that is granted authority by a probate court pursuant to Chapter 2111. of the Revised Code to exercise parental rights over a child to the extent provided in the court’s order and subject to the residual parental rights of the child’s parents.

(18) “Habitual truant” means any child of compulsory school age who is absent without legitimate excuse for absence from the public school the child is supposed to attend for thirty or more consecutive hours, forty-two or more hours in one school month, or seventy-two or more hours in a school year.

(19) “Intellectual disability” has the same meaning as in section 5123.01 of the Revised Code.

(20) “Juvenile traffic offender” has the same meaning as in section 2152.02 of the Revised Code.

(21) “Legal custody” means a legal status that vests in the custodian the right to have physical care and control of the child and to determine where and with whom the child shall live, and the right and duty to protect, train, and discipline the child and to provide the child with food, shelter, education, and medical care, all subject to any residual parental rights, privileges, and responsibilities. An individual granted legal custody shall exercise the rights and responsibilities personally unless otherwise authorized by any section of the Revised Code or by the court.

(22) A “legitimate excuse for absence from the public school the child is supposed to attend” includes, but is not limited to, any of the following:

(a) The fact that the child in question has enrolled in and is attending another public or nonpublic school in this or another state;

(b) The fact that the child in question is excused from attendance at school for any of the reasons specified in section 3321.04 of the Revised Code;

(c) The fact that the child in question has received an age and schooling certificate in accordance with section 3331.01 of the Revised Code.

(23) “Mental illness” has the same meaning as in section 5122.01 of the Revised Code.

(24) “Mental injury” means any behavioral, cognitive, emotional, or mental disorder in a child caused by an act or omission that is described in section 2919.22 of the Revised Code and is committed by the parent or other person responsible for the

child's care.

(25) "Nonsecure care, supervision, or training" means care, supervision, or training of a child in a facility that does not confine or prevent movement of the child within the facility or from the facility.

(26) "Of compulsory school age" has the same meaning as in section 3321.01 of the Revised Code.

(27) "Organization" means any institution, public, semipublic, or private, and any private association, society, or agency located or operating in the state, incorporated or unincorporated, having among its functions the furnishing of protective services or care for children, or the placement of children in certified foster homes or elsewhere.

(28) "Out-of-home care" means detention facilities, shelter facilities, certified children's crisis care facilities, certified foster homes, placement in a prospective adoptive home prior to the issuance of a final decree of adoption, organizations, certified organizations, child day-care centers, type A family day-care homes, type B family day-care homes, child care provided by in-home aides, group home providers, group homes, institutions, state institutions, residential facilities, residential care facilities, residential camps, day camps, private, nonprofit therapeutic wilderness camps, public schools, chartered nonpublic schools, educational service centers, hospitals, and medical clinics that are responsible for the care, physical custody, or control of children.

(29) "Out-of-home care child abuse" means any of the following when committed by a person responsible for the care of a child in out-of-home care:

(a) Engaging in sexual activity with a child in the person's care;

(b) Denial to a child, as a means of punishment, of proper or necessary subsistence, education, medical care, or other care necessary for a child's health;

(c) Use of restraint procedures on a child that cause injury or pain;

(d) Administration of prescription drugs or psychotropic medication to the child without the written approval and ongoing supervision of a licensed physician;

(e) Commission of any act, other than by accidental means, that results in any injury to or death of the child in out-of-home care or commission of any act by accidental means that results in an injury to or death of a child in out-of-home care and that is at variance with the history given of the injury or death.

(30) "Out-of-home care child neglect" means any of the following when committed by a person responsible for the care of a child in out-of-home care:

(a) Failure to provide reasonable supervision according to the standards of care appropriate to the age, mental and physical condition, or other special needs of the child;

(b) Failure to provide reasonable supervision according to the standards of care appropriate to the age, mental and physical condition, or other special needs of the child, that results in sexual or physical abuse of the child by any person;

(c) Failure to develop a process for all of the following:

(i) Administration of prescription drugs or psychotropic drugs for the child;

(ii) Assuring that the instructions of the licensed physician who prescribed a drug for the child are followed;

(iii) Reporting to the licensed physician who prescribed the drug all unfavorable or dangerous side effects from the use of the drug.

(d) Failure to provide proper or necessary subsistence, education, medical care, or other individualized care necessary for the health or well-being of the child;

(e) Confinement of the child to a locked room without monitoring by staff;

(f) Failure to provide ongoing security for all prescription and nonprescription medication;

(g) Isolation of a child for a period of time when there is substantial risk that the isolation, if continued, will impair or retard the mental health or physical well-being of the child.

(31) "Permanent custody" means a legal status that vests in a public children services agency or a private child placing agency, all parental rights, duties, and obligations, including the right to consent to adoption, and divests the natural parents or adoptive parents of all parental rights, privileges, and obligations, including all residual rights and obligations.



(32) "Permanent surrender" means the act of the parents or, if a child has only one parent, of the parent of a child, by a voluntary agreement authorized by section 5103.15 of the Revised Code, to transfer the permanent custody of the child to a public children services agency or a private child placing agency.

(33) "Person" means an individual, association, corporation, or partnership and the state or any of its political subdivisions, departments, or agencies.

(34) "Person responsible for a child's care in out-of-home care" means any of the following:

(a) Any foster caregiver, in-home aide, or provider;

(b) Any administrator, employee, or agent of any of the following: a public or private detention facility; shelter facility; certified children's crisis care facility; organization; certified organization; child day-care center; type A family day-care home; licensed type B family day-care home; group home; institution; state institution; residential facility; residential care facility; residential camp; day camp; school district; community school; chartered nonpublic school; educational service center; hospital; or medical clinic;

(c) Any person who supervises or coaches children as part of an extracurricular activity sponsored by a school district, public school, or chartered nonpublic school;

(d) Any other person who performs a similar function with respect to, or has a similar relationship to, children.

(35) "Physical impairment" means having one or more of the following conditions that substantially limit one or more of an individual's major life activities, including self-care, receptive and expressive language, learning, mobility, and self-direction:

(a) A substantial impairment of vision, speech, or hearing;

(b) A congenital orthopedic impairment;

(c) An orthopedic impairment caused by disease, rheumatic fever or any other similar chronic or acute health problem, or amputation or another similar cause.

(36) "Placement for adoption" means the arrangement by a public children services agency or a private child placing agency with a person for the care and adoption by that person of a child of whom the agency has permanent custody.

(37) "Placement in foster care" means the arrangement by a public children services agency or a private child placing agency for the out-of-home care of a child of whom the agency has temporary custody or permanent custody.

(38) "Planned permanent living arrangement" means an order of a juvenile court pursuant to which both of the following apply:

(a) The court gives legal custody of a child to a public children services agency or a private child placing agency without the termination of parental rights.

(b) The order permits the agency to make an appropriate placement of the child and to enter into a written agreement with a foster care provider or with another person or agency with whom the child is placed.

(39) "Practice of social work" and "practice of professional counseling" have the same meanings as in section 4757.01 of the Revised Code.

(40) "Private, nonprofit therapeutic wilderness camp" has the same meaning as in section 5103.02 of the Revised Code.

(41) "Sanction, service, or condition" means a sanction, service, or condition created by court order following an adjudication that a child is an unruly child that is described in division (A)(4) of section 2152.19 of the Revised Code.

(42) "Protective supervision" means an order of disposition pursuant to which the court permits an abused, neglected, dependent, or unruly child to remain in the custody of the child's parents, guardian, or custodian and stay in the child's home, subject to any conditions and limitations upon the child, the child's parents, guardian, or custodian, or any other person that the court prescribes, including supervision as directed by the court for the protection of the child.

(43) "Psychiatrist" has the same meaning as in section 5122.01 of the Revised Code.

(44) "Psychologist" has the same meaning as in section 4732.01 of the Revised Code.

(45) "Residential camp" means a program in which the care, physical custody, or control of children is accepted overnight for recreational or recreational and educational purposes.

## 2151.011 Definitions, OH ST § 2151.011

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(46) “Residential care facility” means an institution, residence, or facility that is licensed by the department of mental health and addiction services under section 5119.34 of the Revised Code and that provides care for a child.

(47) “Residential facility” means a home or facility that is licensed by the department of developmental disabilities under section 5123.19 of the Revised Code and in which a child with a developmental disability resides.

(48) “Residual parental rights, privileges, and responsibilities” means those rights, privileges, and responsibilities remaining with the natural parent after the transfer of legal custody of the child, including, but not necessarily limited to, the privilege of reasonable visitation, consent to adoption, the privilege to determine the child’s religious affiliation, and the responsibility for support.

(49) “School day” means the school day established by the board of education of the applicable school district pursuant to section 3313.481 of the Revised Code.

(50) “School year” has the same meaning as in section 3313.62 of the Revised Code.

(51) “Secure correctional facility” means a facility under the direction of the department of youth services that is designed to physically restrict the movement and activities of children and used for the placement of children after adjudication and disposition.

(52) “Sexual activity” has the same meaning as in section 2907.01 of the Revised Code.

(53) “Shelter” means the temporary care of children in physically unrestricted facilities pending court adjudication or disposition.

(54) “Shelter for victims of domestic violence” has the same meaning as in section 3113.33 of the Revised Code.

(55) “Temporary custody” means legal custody of a child who is removed from the child’s home, which custody may be terminated at any time at the discretion of the court or, if the legal custody is granted in an agreement for temporary custody, by the person who executed the agreement.

(56) “Traditional response” means a public children services agency’s response to a report of child abuse or neglect that encourages engagement of the family in a comprehensive evaluation of the child’s current and future safety needs and a

## 2151.011 Definitions, OH ST § 2151.011

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fact-finding process to determine whether child abuse or neglect occurred and the circumstances surrounding the alleged harm or risk of harm.

(C) For the purposes of this chapter, a child shall be presumed abandoned when the parents of the child have failed to visit or maintain contact with the child for more than ninety days, regardless of whether the parents resume contact with the child after that period of ninety days.

### CREDIT(S)

(2016 H 410, eff. 4-6-17; 2016 H 158, eff. 10-12-16; 2015 H 64, eff. 9-29-15; 2014 S 43, eff. 9-17-14; 2013 H 59, § 110.20, eff. 1-1-14 (Provisions subject to different effective dates); 2012 S 316, § 120.01, eff. 1-1-14; 2013 H 59, § 101.01, eff. 9-29-13; 2011 H 153, eff. 9-29-11; 2009 S 79, eff. 10-6-09; 2006 S 238, eff. 9-21-06; 2004 H 11, eff. 5-18-05; 2004 H 106, eff. 9-16-04; 2002 H 400, eff. 4-3-03; 2000 S 179, § 3, eff. 1-1-02; 2000 H 332, eff. 1-1-01; 2000 H 448, eff. 10-5-00; 2000 S 181, eff. 9-4-00; 1999 H 470, eff. 7-1-00; 1998 H 484, eff. 3-18-99; 1998 S 212, eff. 9-30-98; 1997 H 408, eff. 10-1-97; 1996 S 223, eff. 3-18-97; 1996 H 124, eff. 3-31-97; 1996 H 265, eff. 3-3-97; 1996 H 274, § 4, eff. 8-8-96; 1996 H 274, § 1, eff. 8-8-96; 1995 S 2, eff. 7-1-96; 1995 H 1, eff. 1-1-96; 1994 H 715, eff. 7-22-94; 1993 S 21, eff. 10-29-93; 1993 H 152, eff. 7-1-93; 1992 H 356; 1991 H 155; 1990 H 38; 1989 H 257; 1988 H 403)

Notes of Decisions (116)

R.C. § 2151.011, OH ST § 2151.011

Current through File 30 of the 133rd General Assembly (2019-2020).

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**2151.07 Creation and powers of juvenile court; assignment of judge, OH ST § 2151.07**

Baldwin's Ohio Revised Code Annotated

Title XXI. Courts--Probate--Juvenile (Refs & Annos)

Chapter 2151. Juvenile Courts--General Provisions (Refs & Annos)

Administration, Officials, and Jurisdiction

**R.C. § 2151.07**

**2151.07 Creation and powers of juvenile court; assignment of judge**

Effective: October 19, 2015

Currentness

The juvenile court is a court of record within the court of common pleas. The juvenile court has and shall exercise the powers and jurisdiction conferred in Chapters 2151. and 2152. of the Revised Code.

Whenever the juvenile judge of the juvenile court is sick, is absent from the county, or is unable to attend court, or the volume of cases pending in court necessitates it, upon the request of the administrative juvenile judge, the presiding judge of the court of common pleas pursuant to division (FF) of section 2301.03 of the Revised Code shall assign a judge of any division of the court of common pleas of the county to act in the juvenile judge's place or in conjunction with the juvenile judge. If no judge of the court of common pleas is available for that purpose, the chief justice of the supreme court shall assign a judge of the court of common pleas, a juvenile judge, or a probate judge from a different county to act in the place of that juvenile judge or in conjunction with that juvenile judge. The assigned judge shall receive the compensation and expenses for so serving that is provided by law for judges assigned to hold court in courts of common pleas.

**CREDIT(S)**

(2015 H 11, eff. 10-19-15; 2007 S 155, eff. 12-21-07; 2003 H 86, eff. 11-13-03; 2003 H 26, eff. 8-8-03; 2001 H 11, § 3, eff. 1-1-02; 2000 S 179, § 3, eff. 1-1-02; 1972 H 574, eff. 6-29-72; 1969 H 320; 127 v 847; 1953 H 1; GC 1639-7)

Notes of Decisions (30)

R.C. § 2151.07, OH ST § 2151.07

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**2151.08 Juvenile court in Hamilton county, OH ST § 2151.08**

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Baldwin's Ohio Revised Code Annotated
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Title XXI. Courts--Probate--Juvenile (Refs & Annos)
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Chapter 2151. Juvenile Courts--General Provisions (Refs & Annos)
--

Administration, Officials, and Jurisdiction
---

R.C. § 2151.08

2151.08 Juvenile court in Hamilton county

Currentness

In Hamilton county, the powers and jurisdiction of the juvenile court as conferred by Chapters 2151. and 2152. of the Revised Code shall be exercised by the judge of the court of common pleas whose term begins on January 1, 1957, and that judge's successors and by the judge of the court of common pleas whose term begins on February 14, 1967, and that judge's successors as provided by section 2301.03 of the Revised Code. This conferral of powers and jurisdiction on the specified judges shall be deemed a creation of a separately and independently created and established juvenile court in Hamilton county, Ohio. The specified judges shall serve in each and every position where the statutes permit or require a juvenile judge to serve.

**CREDIT(S)**

(2000 S 179, § 3, eff. 1-1-02; 131 v H 165, eff. 11-16-65; 127 v 84)

Notes of Decisions (1)

R.C. § 2151.08, OH ST § 2151.08

Current through File 30 of the 133rd General Assembly (2019-2020).

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**2151.08 Juvenile court in Hamilton county, OH ST § 2151.08**

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Baldwin's Ohio Revised Code Annotated
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Title XXI. Courts--Probate--Juvenile (Refs & Annos)
---

Chapter 2151. Juvenile Courts--General Provisions (Refs & Annos)
--

Administration, Officials, and Jurisdiction
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R.C. § 2151.08

2151.08 Juvenile court in Hamilton county

Currentness

In Hamilton county, the powers and jurisdiction of the juvenile court as conferred by Chapters 2151. and 2152. of the Revised Code shall be exercised by the judge of the court of common pleas whose term begins on January 1, 1957, and that judge's successors and by the judge of the court of common pleas whose term begins on February 14, 1967, and that judge's successors as provided by section 2301.03 of the Revised Code. This conferral of powers and jurisdiction on the specified judges shall be deemed a creation of a separately and independently created and established juvenile court in Hamilton county, Ohio. The specified judges shall serve in each and every position where the statutes permit or require a juvenile judge to serve.

**CREDIT(S)**

(2000 S 179, § 3, eff. 1-1-02; 131 v H 165, eff. 11-16-65; 127 v 84)

Notes of Decisions (1)

R.C. § 2151.08, OH ST § 2151.08

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Proposed Legislation

Baldwin's Ohio Revised Code Annotated Title XXI. Courts--Probate--Juvenile (Refs & Annos) Chapter 2151. Juvenile Courts--General Provisions (Refs & Annos) Administration, Officials, and Jurisdiction
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R.C. § 2151.23

2151.23 Jurisdiction of juvenile court; orders for child support.

Effective: April 6, 2017  
Currentness

(A) The juvenile court has exclusive original jurisdiction under the Revised Code as follows:

(1) Concerning any child who on or about the date specified in the complaint, indictment, or information is alleged to have violated section 2151.87 of the Revised Code or an order issued under that section or to be a juvenile traffic offender or a delinquent, unruly, abused, neglected, or dependent child and, based on and in relation to the allegation pertaining to the child, concerning the parent, guardian, or other person having care of a child who is alleged to be an unruly child for being an habitual truant or who is alleged to be a delinquent child for violating a court order regarding the child's prior adjudication as an unruly child for being an habitual truant;

(2) Subject to divisions (G), (K), and (V) of section 2301.03 of the Revised Code, to determine the custody of any child not a ward of another court of this state;

(3) To hear and determine any application for a writ of habeas corpus involving the custody of a child;

(4) To exercise the powers and jurisdiction given the probate division of the court of common pleas in Chapter 5122. of the Revised Code, if the court has probable cause to believe that a child otherwise within the jurisdiction of the court is a mentally ill person subject to court order, as defined in section 5122.01 of the Revised Code;

(5) To hear and determine all criminal cases charging adults with the violation of any section of this chapter;

(6) To hear and determine all criminal cases in which an adult is charged with a violation of division (C) of section 2919.21, division (B)(1) of section 2919.22, section 2919.222, division (B) of section 2919.23, or section 2919.24 of the Revised Code, provided the charge is not included in an indictment that also charges the alleged adult offender with the commission of a felony arising out of the same actions that are the basis of the alleged violation of division (C) of section 2919.21, division (B)(1) of section 2919.22, section 2919.222, division (B) of section 2919.23, or section 2919.24 of the Revised Code;

(7) Under the interstate compact on juveniles in section 2151.56 of the Revised Code;



(8) Concerning any child who is to be taken into custody pursuant to section 2151.31 of the Revised Code, upon being notified of the intent to take the child into custody and the reasons for taking the child into custody;

(9) To hear and determine requests for the extension of temporary custody agreements, and requests for court approval of permanent custody agreements, that are filed pursuant to section 5103.15 of the Revised Code;

(10) To hear and determine applications for consent to marry pursuant to section 3101.04 of the Revised Code;

(11) Subject to divisions (G), (K), and (V) of section 2301.03 of the Revised Code, to hear and determine a request for an order for the support of any child if the request is not ancillary to an action for divorce, dissolution of marriage, annulment, or legal separation, a criminal or civil action involving an allegation of domestic violence, or an action for support brought under Chapter 3115. of the Revised Code;

(12) Concerning an action commenced under section 121.38 of the Revised Code;

(13) To hear and determine violations of section 3321.38 of the Revised Code;

(14) To exercise jurisdiction and authority over the parent, guardian, or other person having care of a child alleged to be a delinquent child, unruly child, or juvenile traffic offender, based on and in relation to the allegation pertaining to the child;

(15) To conduct the hearings, and to make the determinations, adjudications, and orders authorized or required under sections 2152.82 to 2152.86 and Chapter 2950, of the Revised Code regarding a child who has been adjudicated a delinquent child and to refer the duties conferred upon the juvenile court judge under sections 2152.82 to 2152.86 and Chapter 2950, of the Revised Code to magistrates appointed by the juvenile court judge in accordance with Juvenile Rule 40;

(16) To hear and determine a petition for a protection order against a child under section 2151.34 or 3113.31 of the Revised Code and to enforce a protection order issued or a consent agreement approved under either section against a child until a date certain but not later than the date the child attains nineteen years of age.

(B) Except as provided in divisions (G) and (I) of section 2301.03 of the Revised Code, the juvenile court has original jurisdiction under the Revised Code:

(1) To hear and determine all cases of misdemeanors charging adults with any act or omission with respect to any child, which act or omission is a violation of any state law or any municipal ordinance;

(2) To determine the paternity of any child alleged to have been born out of wedlock pursuant to sections 3111.01 to 3111.18 of the Revised Code;

- (3) Under the uniform interstate family support act in Chapter 3115, of the Revised Code;
  - (4) To hear and determine an application for an order for the support of any child, if the child is not a ward of another court of this state;
  - (5) To hear and determine an action commenced under section 3111.28 of the Revised Code;
  - (6) To hear and determine a motion filed under section 3119.961 of the Revised Code;
  - (7) To receive filings under section 3109.74 of the Revised Code, and to hear and determine actions arising under sections 3109.51 to 3109.80 of the Revised Code.
  - (8) To enforce an order for the return of a child made under the Hague Convention on the Civil Aspects of International Child Abduction pursuant to section 3127.32 of the Revised Code;
  - (9) To grant any relief normally available under the laws of this state to enforce a child custody determination made by a court of another state and registered in accordance with section 3127.35 of the Revised Code.
- (C) The juvenile court, except as to juvenile courts that are a separate division of the court of common pleas or a separate and independent juvenile court, has jurisdiction to hear, determine, and make a record of any action for divorce or legal separation that involves the custody or care of children and that is filed in the court of common pleas and certified by the court of common pleas with all the papers filed in the action to the juvenile court for trial, provided that no certification of that nature shall be made to any juvenile court unless the consent of the juvenile judge first is obtained. After a certification of that nature is made and consent is obtained, the juvenile court shall proceed as if the action originally had been begun in that court, except as to awards for spousal support or support due and unpaid at the time of certification, over which the juvenile court has no jurisdiction.
- (D) The juvenile court, except as provided in divisions (G) and (I) of section 2301.03 of the Revised Code, has jurisdiction to hear and determine all matters as to custody and support of children duly certified by the court of common pleas to the juvenile court after a divorce decree has been granted, including jurisdiction to modify the judgment and decree of the court of common pleas as the same relate to the custody and support of children.
- (E) The juvenile court, except as provided in divisions (G) and (I) of section 2301.03 of the Revised Code, has jurisdiction to hear and determine the case of any child certified to the court by any court of competent jurisdiction if the child comes within the jurisdiction of the juvenile court as defined by this section.
- (F)(1) The juvenile court shall exercise its jurisdiction in child custody matters in accordance with sections 3109.04 and 3127.01 to 3127.53 of the Revised Code and, as applicable, sections 5103.20 to 5103.22 or 5103.23 to 5103.237 of the Revised Code.

(2) The juvenile court shall exercise its jurisdiction in child support matters in accordance with section 3109.05 of the Revised Code.

(G) Any juvenile court that makes or modifies an order for child support shall comply with Chapters 3119., 3121., 3123., and 3125, of the Revised Code. If any person required to pay child support under an order made by a juvenile court on or after April 15, 1985, or modified on or after December 1, 1986, is found in contempt of court for failure to make support payments under the order, the court that makes the finding, in addition to any other penalty or remedy imposed, shall assess all court costs arising out of the contempt proceeding against the person and require the person to pay any reasonable attorney's fees of any adverse party, as determined by the court, that arose in relation to the act of contempt.

(H) If a child who is charged with an act that would be an offense if committed by an adult was fourteen years of age or older and under eighteen years of age at the time of the alleged act and if the case is transferred for criminal prosecution pursuant to section 2152.12 of the Revised Code, except as provided in section 2152.121 of the Revised Code, the juvenile court does not have jurisdiction to hear or determine the case subsequent to the transfer. The court to which the case is transferred for criminal prosecution pursuant to that section has jurisdiction subsequent to the transfer to hear and determine the case in the same manner as if the case originally had been commenced in that court, subject to section 2152.121 of the Revised Code, including, but not limited to, jurisdiction to accept a plea of guilty or another plea authorized by Criminal Rule 11 or another section of the Revised Code and jurisdiction to accept a verdict and to enter a judgment of conviction pursuant to the Rules of Criminal Procedure against the child for the commission of the offense that was the basis of the transfer of the case for criminal prosecution, whether the conviction is for the same degree or a lesser degree of the offense charged, for the commission of a lesser-included offense, or for the commission of another offense that is different from the offense charged.

(I) If a person under eighteen years of age allegedly commits an act that would be a felony if committed by an adult and if the person is not taken into custody or apprehended for that act until after the person attains twenty-one years of age, the juvenile court does not have jurisdiction to hear or determine any portion of the case charging the person with committing that act. In those circumstances, divisions (A) and (B) of section 2152.12 of the Revised Code do not apply regarding the act, and the case charging the person with committing the act shall be a criminal prosecution commenced and heard in the appropriate court having jurisdiction of the offense as if the person had been eighteen years of age or older when the person committed the act. All proceedings pertaining to the act shall be within the jurisdiction of the court having jurisdiction of the offense, and that court has all the authority and duties in the case that it has in other criminal cases in that court.

(J) In exercising its exclusive original jurisdiction under division (A)(16) of this section with respect to any proceedings brought under section 2151.34 or 3113.31 of the Revised Code in which the respondent is a child, the juvenile court retains all dispositional powers consistent with existing rules of juvenile procedure and may also exercise its discretion to adjudicate proceedings as provided in sections 2151.34 and 3113.31 of the Revised Code, including the issuance of protection orders or the approval of consent agreements under those sections.

#### CREDIT(S)

(2016 H 410, eff. 4-6-17; 2014 S 43, eff. 9-17-14; 2011 H 86, eff. 9-30-11; 2010 H 10, eff. 6-17-10; 2008 H 214 §5, eff. 5-14-08; 2007 S 10, eff. 1-1-08; 2006 S 238, eff. 9-21-06; 2004 S 185, eff. 4-11-05; 2004 H 38, eff. 6-17-04; 2001 S 3, eff. 1-1-02; 2000 S 179, § 3, eff. 1-1-02; 2000 S 180, eff. 3-22-01; 2000 S 218, eff. 3-15-01; 2000 H 583, eff. 6-14-00; 2000 S 181, eff. 9-4-00; 1997 H 352, eff. 1-1-98; 1997 H 215, eff. 6-30-97; 1996 H 124, eff. 3-31-97; 1996 H 377, eff. 10-17-96; 1996

2151.23 Jurisdiction of juvenile court; orders for child support, OH ST § 2151.23

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S 269, eff. 7-1-96; 1996 H 274, eff. 8-8-96; 1995 H 1, eff. 1-1-96; 1993 H 173, eff. 12-31-93; 1993 S 21; 1992 S 10; 1990 S 3, H 514, S 258, H 591; 1988 S 89; 1986 H 428, H 509, H 476; 1984 H 614; 1983 H 93; 1982 H 515; 1981 H 1; 1977 S 135; 1976 H 244; 1975 H 85; 1970 H 931; 1969 H 320)

Notes of Decisions (387)

Footnotes

1 So in original; should this read "Section 5"?

R.C. § 2151.23, OH ST § 2151.23

Current through File 75, 77 to 81, 83 and 84 of the 132nd General Assembly (2017-2018), 2017 State Issue 1, and 2018 State Issue 1.

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Baldwin's Ohio Revised Code Annotated

Title XXI. Courts--Probate--Juvenile (Refs & Annos)

Chapter 2151. Juvenile Courts--General Provisions (Refs & Annos)

Hearing and Disposition

R.C. § 2151.352

2151.352 Right to counsel

Currentness

A child, the child's parents or custodian, or any other person in loco parentis of the child is entitled to representation by legal counsel at all stages of the proceedings under this chapter or Chapter 2152. of the Revised Code. If, as an indigent person, a party is unable to employ counsel, the party is entitled to have counsel provided for the person pursuant to Chapter 120. of the Revised Code except in civil matters in which the juvenile court is exercising jurisdiction pursuant to division (A)(2), (3), (9), (10), (11), (12), or (13); (B)(2), (3), (4), (5), or (6); (C); (D); or (F)(1) or (2) of section 2151.23 of the Revised Code. If a party appears without counsel, the court shall ascertain whether the party knows of the party's right to counsel and of the party's right to be provided with counsel if the party is an indigent person. The court may continue the case to enable a party to obtain counsel, to be represented by the county public defender or the joint county public defender, or to be appointed counsel upon request pursuant to Chapter 120. of the Revised Code. Counsel must be provided for a child not represented by the child's parent, guardian, or custodian. If the interests of two or more such parties conflict, separate counsel shall be provided for each of them.

Section 2935.14 of the Revised Code applies to any child taken into custody. The parents, custodian, or guardian of such child, and any attorney at law representing them or the child, shall be entitled to visit such child at any reasonable time, be present at any hearing involving the child, and be given reasonable notice of such hearing.

Any report or part thereof concerning such child, which is used in the hearing and is pertinent thereto, shall for good cause shown be made available to any attorney at law representing such child and to any attorney at law representing the parents, custodian, or guardian of such child, upon written request prior to any hearing involving such child.

#### CREDIT(S)

(2005 H 66, eff. 9-29-05; 2000 S 179, § 3, eff. 1-1-02; 1975 H 164, eff. 1-13-76; 1969 H 320)

Notes of Decisions (211)

R.C. § 2151.352, OH ST § 2151.352

Current through File 84 of the 132nd General Assembly (2017-2018), 2017 State Issue 1, and 2018 State Issue 1.

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Baldwin's Ohio Revised Code Annotated  
Title XXI, Courts--Probate--Juvenile (Refs & Annos)  
Chapter 2151, Juvenile Courts--General Provisions (Refs & Annos)  
Hearing and Disposition

R.C. § 2151.356

2151.356 Criteria for sealing records; notice

Effective: September 19, 2014  
Currentness

(A) The records of a case in which a person was adjudicated a delinquent child for committing a violation of section 2903.01, 2903.02, or 2907.02 of the Revised Code shall not be sealed under this section.

(B)(1) The juvenile court shall promptly order the immediate sealing of records pertaining to a juvenile in any of the following circumstances:

(a) If the court receives a record from a public office or agency under division (B)(2) of this section;

(b) If a person was brought before or referred to the court for allegedly committing a delinquent or unruly act and the case was resolved without the filing of a complaint against the person with respect to that act pursuant to section 2151.27 of the Revised Code;

(c) If a person was charged with violating division (B)(1) of section 4301.69 of the Revised Code and the person has successfully completed a diversion program under division (B)(2)(a) of section 4301.69 of the Revised Code with respect to that charge;

(d) If a complaint was filed against a person alleging that the person was a delinquent child, an unruly child, or a juvenile traffic offender and the court dismisses the complaint after a trial on the merits of the case or finds the person not to be a delinquent child, an unruly child, or a juvenile traffic offender;

(e) Notwithstanding division (C) of this section and subject to section 2151.358 of the Revised Code, if a person has been adjudicated an unruly child, that person has attained eighteen years of age, and the person is not under the jurisdiction of the court in relation to a complaint alleging the person to be a delinquent child.

(2) The appropriate public office or agency shall immediately deliver all original records at that public office or agency pertaining to a juvenile to the court, if the person was arrested or taken into custody for allegedly committing a delinquent or unruly act, no complaint was filed against the person with respect to the commission of the act pursuant to section 2151.27 of the Revised Code, and the person was not brought before or referred to the court for the commission of the act. The records delivered to the court as required under this division shall not include fingerprints, DNA specimens, and DNA records described under division (A)(3) of section 2151.357 of the Revised Code.

(C)(1) The juvenile court shall consider the sealing of records pertaining to a juvenile upon the court's own motion or upon the application of a person if the person has been adjudicated a delinquent child for committing an act other than a violation of section 2903.01, 2903.02, or 2907.02 of the Revised Code, an unruly child, or a juvenile traffic offender and if, at the time of the motion or application, the person is not under the jurisdiction of the court in relation to a complaint alleging the person to be a delinquent child. The court shall not require a fee for the filing of the application. The motion or application may be made on or after the time specified in whichever of the following is applicable:

(a) If the person is under eighteen years of age, at any time after six months after any of the following events occur:

(i) The termination of any order made by the court in relation to the adjudication;

(ii) The unconditional discharge of the person from the department of youth services with respect to a dispositional order made in relation to the adjudication or from an institution or facility to which the person was committed pursuant to a dispositional order made in relation to the adjudication;

(iii) The court enters an order under section 2152.84 or 2152.85 of the Revised Code that contains a determination that the child is no longer a juvenile offender registrant.

(b) If the person is eighteen years of age or older, at any time after the later of the following:

(i) The person's attainment of eighteen years of age;

(ii) The occurrence of any event identified in divisions (C)(1)(a)(i) to (iii) of this section.

(2) In making the determination whether to seal records pursuant to division (C)(1) of this section, all of the following apply:

(a) The court may require a person filing an application under division (C)(1) of this section to submit any relevant documentation to support the application.

(b) The court may cause an investigation to be made to determine if the person who is the subject of the proceedings has been rehabilitated to a satisfactory degree.

(c) The court shall promptly notify the prosecuting attorney of any proceedings to seal records initiated pursuant to division (C)(1) of this section.

(d)(i) The prosecuting attorney may file a response with the court within thirty days of receiving notice of the sealing proceedings.

(ii) If the prosecuting attorney does not file a response with the court or if the prosecuting attorney files a response but indicates that the prosecuting attorney does not object to the sealing of the records, the court may order the records of the person that are under consideration to be sealed without conducting a hearing on the motion or application. If the court decides in its discretion to conduct a hearing on the motion or application, the court shall conduct the hearing within thirty days after making that decision and shall give notice, by regular mail, of the date, time, and location of the hearing to the prosecuting attorney and to the person who is the subject of the records under consideration.

(iii) If the prosecuting attorney files a response with the court that indicates that the prosecuting attorney objects to the sealing of the records, the court shall conduct a hearing on the motion or application within thirty days after the court receives the response. The court shall give notice, by regular mail, of the date, time, and location of the hearing to the prosecuting attorney and to the person who is the subject of the records under consideration.

(e) After conducting a hearing in accordance with division (C)(2)(d) of this section or after due consideration when a hearing is not conducted, except as provided in division (B)(1)(c) of this section, the court may order the records of the person that are the subject of the motion or application to be sealed if it finds that the person has been rehabilitated to a satisfactory degree. In determining whether the person has been rehabilitated to a satisfactory degree, the court may consider all of the following:

(i) The age of the person;

(ii) The nature of the case;

(iii) The cessation or continuation of delinquent, unruly, or criminal behavior;

(iv) The education and employment history of the person;

(v) The granting of a new tier classification or declassification from the juvenile offender registry pursuant to section 2152.85 of the Revised Code, except for public registry-qualified juvenile offender registrants;

(vi) Any other circumstances that may relate to the rehabilitation of the person who is the subject of the records under consideration.

(D)(1)(a) The juvenile court shall provide verbal notice to a person whose records are sealed under division (B) of this section, if that person is present in the court at the time the court issues a sealing order, that explains what sealing a record means, states that the person may apply to have those records expunged under section 2151.358 of the Revised Code, and explains what expunging a record means.

(b) The juvenile court shall provide written notice to a person whose records are sealed under division (B) of this section by regular mail to the person's last known address, if that person is not present in the court at the time the court issues a sealing order and if the court does not seal the person's record upon the court's own motion, that explains what sealing



a record means, states that the person may apply to have those records expunged under section 2151.358 of the Revised Code, and explains what expunging a record means.

(2) Upon final disposition of a case in which a person has been adjudicated a delinquent child for committing an act other than a violation of section 2903.01, 2903.02, or 2907.02 of the Revised Code, an unruly child, or a juvenile traffic offender, the juvenile court shall provide written notice to the person that does all of the following:

(a) States that the person may apply to the court for an order to seal the record;

(b) Explains what sealing a record means;

(c) States that the person may apply to the court for an order to expunge the record under section 2151.358 of the Revised Code;

(d) Explains what expunging a record means.

(3) The department of youth services and any other institution or facility that unconditionally discharges a person who has been adjudicated a delinquent child, an unruly child, or a juvenile traffic offender shall immediately give notice of the discharge to the court that committed the person. The court shall note the date of discharge on a separate record of discharges of those natures,

CREDIT(S)

(2014 S 143, eff. 9-19-14; 2012 S 337, eff. 9-28-12; 2006 H 137, eff. 10-9-06)

Notes of Decisions (4)

R.C. § 2151.356, OH ST § 2151.356

Current through File 75, 77 to 81, 83 and 84 of the 132nd General Assembly (2017-2018), 2017 State Issue 1, and 2018 State Issue 1.

Baldwin's Ohio Revised Code Annotated

Title XXI. Courts--Probate--Juvenile (Refs & Annos)

Chapter 2151. Juvenile Courts--General Provisions (Refs & Annos)

Hearing and Disposition

R.C. § 2151.358

2151.358 Expungement of sealed records

Effective: June 27, 2012

Currentness

(A) The juvenile court shall expunge all records sealed under section 2151.356 of the Revised Code five years after the court issues a sealing order or upon the twenty-third birthday of the person who is the subject of the sealing order, whichever date is earlier.

(B) Notwithstanding division (A) of this section, upon application by the person who has had a record sealed under section 2151.356 of the Revised Code, the juvenile court may expunge a record sealed under section 2151.356 of the Revised Code. In making the determination whether to expunge records, all of the following apply:

(1) The court may require a person filing an application for expungement to submit any relevant documentation to support the application.

(2) The court may cause an investigation to be made to determine if the person who is the subject of the proceedings has been rehabilitated to a satisfactory degree.

(3) The court shall promptly notify the prosecuting attorney of any proceedings to expunge records.

(4)(a) The prosecuting attorney may file a response with the court within thirty days of receiving notice of the expungement proceedings.

(b) If the prosecuting attorney does not file a response with the court or if the prosecuting attorney files a response but indicates that the prosecuting attorney does not object to the expungement of the records, the court may order the records of the person that are under consideration to be expunged without conducting a hearing on the application. If the court decides in its discretion to conduct a hearing on the application, the court shall conduct the hearing within thirty days after making that decision and shall give notice, by regular mail, of the date, time, and location of the hearing to the prosecuting attorney and to the person who is the subject of the records under consideration.

(c) If the prosecuting attorney files a response with the court that indicates that the prosecuting attorney objects to the expungement of the records, the court shall conduct a hearing on the application within thirty days after the court receives the response. The court shall give notice, by regular mail, of the date, time, and location of the hearing to the prosecuting attorney and to the person who is the subject of the records under consideration.

(5) After conducting a hearing in accordance with division (B)(4) of this section or after due consideration when a hearing is not conducted, the court may order the records of the person that are the subject of the application to be expunged if it finds that the person has been rehabilitated to a satisfactory degree. In determining whether the person has been rehabilitated to a satisfactory degree, the court may consider all of the following:

- (a) The age of the person;
- (b) The nature of the case;
- (c) The cessation or continuation of delinquent, unruly, or criminal behavior;
- (d) The education and employment history of the person;
- (e) Any other circumstances that may relate to the rehabilitation of the person who is the subject of the records under consideration.

(C) If the juvenile court is notified by any party in a civil action that a civil action has been filed based on a case the records for which are the subject of a sealing order, the juvenile court shall not expunge a record sealed under section 2151.356 of the Revised Code until the civil action has been resolved and is not subject to further appellate review, at which time the records shall be expunged pursuant to division (A) of this section.

(D)(1) A juvenile court that issues a protection order or approves a consent agreement under section 2151.34 or 3113.31 of the Revised Code shall automatically seal all of the records of the proceeding in which the order was issued or agreement approved on the date the person against whom the protection order was issued or the consent agreement approved attains the age of nineteen years if the court determines that the person has complied with all of the terms of the protection order or consent agreement.

(2) In a proceeding under section 2151.34 of the Revised Code, if the juvenile court does not issue any protection order under division (E) of that section, the court shall automatically seal all of the records in that proceeding. In a proceeding under section 3113.31 of the Revised Code, if the juvenile court does not issue any protection order or approve any consent agreement under division (E) of that section, the court shall automatically seal all of the records in that proceeding.

(3)(a) If a juvenile court that issues a protection order or approves a consent agreement under section 2151.34 or 3113.31 of the Revised Code determines that the person against whom the protection order was issued or the consent agreement approved has not complied with all of the terms of the protection order or consent agreement, the court shall consider sealing all of the records of the proceeding in which the order was issued or agreement approved upon the court's own motion or upon the application of a person. The court may make the motion or the person who is the subject of the records under consideration may apply for an order sealing the records of the proceeding at any time after two years after the expiration of the protection order or consent agreement.

(b) In making a determination whether to seal records pursuant to division (D)(3) of this section, all of the following apply:

(i) The court may require a person filing an application under division (D)(3) of this section to submit any relevant documentation to support the application.

(ii) The court shall promptly notify the victim or the victim's attorney of any proceedings to seal records initiated pursuant to division (D)(3) of this section.

(iii) The victim or the victim's attorney may file a response with the court within thirty days of receiving notice of the sealing proceedings.

If the victim or the victim's attorney does not file a response with the court or if the victim or the victim's attorney files a response but indicates that the victim or the victim's attorney does not object to the sealing of the records, the court may order the records of the person that are under consideration to be sealed without conducting a hearing on the motion or application. If the court decides in its discretion to conduct a hearing on the motion or application, the court shall conduct the hearing within thirty days after making that decision and shall give notice, by regular mail, of the date, time, and location of the hearing to the victim or the victim's attorney and to the person who is the subject of the records under consideration.

If the victim or the victim's attorney files a response with the court that indicates that the victim or the victim's attorney objects to the sealing of the records, the court shall conduct a hearing on the motion or application within thirty days after the court receives the response. The court shall give notice, by regular mail, of the date, time, and location of the hearing to the victim or the victim's attorney and to the person who is the subject of the records under consideration.

(iv) After conducting a hearing in accordance with division (D)(3)(b)(iii) of this section or after due consideration when a hearing is not conducted, the court may order the records of the person that are the subject of the motion or application to be sealed.

(4) Inspection of the records sealed pursuant to division (D)(1), (2), or (3) of this section may be made only by the following persons or for the following purposes:

(a) By a law enforcement officer or prosecutor, or the assistants of either, to determine whether the nature and character of the offense with which a person is to be charged would be affected by virtue of the person's previously having been convicted of a crime;

(b) By the parole or probation officer of the person who is the subject of the records, for the exclusive use of the officer in supervising the person while on parole or under a community control sanction or a post-release control sanction, and in making inquiries and written reports as requested by the court or adult parole authority;

(c) Upon application by the person who is the subject of the records, by the persons named in the application;

(d) By a law enforcement officer who was involved in the case, for use in the officer's defense of a civil action arising out of the officer's involvement in that case;

(e) By a prosecuting attorney or the prosecuting attorney's assistants, to determine a defendant's eligibility to enter a pre-trial diversion program established pursuant to section 2935.36 of the Revised Code;

(f) By any law enforcement agency or any authorized employee of a law enforcement agency or by the department of rehabilitation and correction as part of a background investigation of a person who applies for employment with the agency as a law enforcement officer or with the department as a corrections officer;

(g) By any law enforcement agency or any authorized employee of a law enforcement agency, for the purposes set forth in, and in the manner provided in, section 2953.321 of the Revised Code;

(h) By the bureau of criminal identification and investigation or any authorized employee of the bureau for the purpose of providing information to a board or person pursuant to division (F) or (G) of section 109.57 of the Revised Code;

(i) By the bureau of criminal identification and investigation or any authorized employee of the bureau for the purpose of performing a criminal history records check on a person to whom a certificate as prescribed in section 109.77 of the Revised Code is to be awarded;

(j) By the bureau of criminal identification and investigation or any authorized employee of the bureau for the purpose of conducting a criminal records check of an individual pursuant to division (B) of section 109.572 of the Revised Code that was requested pursuant to any of the sections identified in division (B)(1) of that section;

(k) By the bureau of criminal identification and investigation, an authorized employee of the bureau, a sheriff, or an authorized employee of a sheriff in connection with a criminal records check described in section 311.41 of the Revised Code;

(l) By the attorney general or an authorized employee of the attorney general or a court for purposes of determining a person's classification pursuant to Chapter 2950. of the Revised Code.

When the nature and character of the offense with which a person is to be charged would be affected by the information, it may be used for the purpose of charging the person with an offense.

(B) In addition to the methods of expungement provided for in divisions (A) and (B) of this section, a person who has been adjudicated a delinquent child for having committed an act that would be a violation of section 2907.24, 2907.241, or 2907.25 of the Revised Code if the child were an adult may apply to the adjudicating court for the expungement of the record of adjudication if the person's participation in the act was a result of the person having been a victim of human trafficking. The application shall be made in the same manner as an application for expungement under section 2953.38 of the Revised Code, and all of the provisions of that section shall apply to the expungement procedure.

(F) After the records have been expunged under this section, the person who is the subject of the expunged records properly may, and the court shall, reply that no record exists with respect to the person upon any inquiry in the matter.

CREDIT(S)

(2012 H 262, eff. 6-27-12; 2010 H 10, eff. 6-17-10; 2006 H 137, eff. 10-9-06)

Notes of Decisions (34)

R.C. § 2151.358, OH ST § 2151.358

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Title XXI. Courts--Probate--Juvenile (Refs & Annos)  
Chapter 2152. Juvenile Courts--Criminal Provisions (Refs & Annos)  
General Provisions (Refs & Annos)

R.C. § 2152.01

2152.01 Purposes; applicability of law

Currentness

(A) The overriding purposes for dispositions under this chapter are to provide for the care, protection, and mental and physical development of children subject to this chapter, protect the public interest and safety, hold the offender accountable for the offender's actions, restore the victim, and rehabilitate the offender. These purposes shall be achieved by a system of graduated sanctions and services.

(B) Dispositions under this chapter shall be reasonably calculated to achieve the overriding purposes set forth in this section, commensurate with and not demeaning to the seriousness of the delinquent child's or the juvenile traffic offender's conduct and its impact on the victim, and consistent with dispositions for similar acts committed by similar delinquent children and juvenile traffic offenders. The court shall not base the disposition on the race, ethnic background, gender, or religion of the delinquent child or juvenile traffic offender.

(C) To the extent they do not conflict with this chapter, the provisions of Chapter 2151. of the Revised Code apply to the proceedings under this chapter.

CREDIT(S)

(2000 S 179, § 3, eff. 1-1-02)

Notes of Decisions (8)

R.C. § 2152.01, OH ST § 2152.01

Current through File 75, 77 to 81, 83 and 84 of the 132nd General Assembly (2017-2018), 2017 State Issue 1, and 2018 State Issue 1.

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Proposed Legislation

Baldwin's Ohio Revised Code Annotated  
Title XXI. Courts--Probate--Juvenile (Refs & Annos)  
Chapter 2152. Juvenile Courts--Criminal Provisions (Refs & Annos)  
General Provisions (Refs & Annos)

R.C. § 2152.02

2152.02 Definitions

Effective: April 6, 2017  
Currentness

As used in this chapter:

(A) "Act charged" means the act that is identified in a complaint, indictment, or information alleging that a child is a delinquent child.

(B) "Admitted to a department of youth services facility" includes admission to a facility operated, or contracted for, by the department and admission to a comparable facility outside this state by another state or the United States.

(C)(1) "Child" means a person who is under eighteen years of age, except as otherwise provided in divisions (C)(2) to (8) of this section.

(2) Subject to division (C)(3) of this section, any person who violates a federal or state law or a municipal ordinance prior to attaining eighteen years of age shall be deemed a "child" irrespective of that person's age at the time the complaint with respect to that violation is filed or the hearing on the complaint is held.

(3) Any person who, while under eighteen years of age, commits an act that would be a felony if committed by an adult and who is not taken into custody or apprehended for that act until after the person attains twenty-one years of age is not a child in relation to that act.

(4) Except as otherwise provided in divisions (C)(5) and (7) of this section, any person whose case is transferred for criminal prosecution pursuant to section 2152.12 of the Revised Code shall be deemed after the transfer not to be a child in the transferred case.

(5) Any person whose case is transferred for criminal prosecution pursuant to section 2152.12 of the Revised Code and who subsequently is convicted of or pleads guilty to a felony in that case, unless a serious youthful offender dispositional sentence is imposed on the child for that offense under division (B)(2) or (3) of section 2152.121 of the Revised Code and the adult portion of that sentence is not invoked pursuant to section 2152.14 of the Revised Code, and any person who is adjudicated a delinquent child for the commission of an act, who has a serious youthful offender dispositional sentence imposed for the act pursuant to section 2152.13 of the Revised Code, and whose adult portion of the dispositional



sentence is invoked pursuant to section 2152.14 of the Revised Code, shall be deemed after the conviction, plea, or invocation not to be a child in any case in which a complaint is filed against the person.

(6) The juvenile court has jurisdiction over a person who is adjudicated a delinquent child or juvenile traffic offender prior to attaining eighteen years of age until the person attains twenty-one years of age, and, for purposes of that jurisdiction related to that adjudication, except as otherwise provided in this division, a person who is so adjudicated a delinquent child or juvenile traffic offender shall be deemed a "child" until the person attains twenty-one years of age. If a person is so adjudicated a delinquent child or juvenile traffic offender and the court makes a disposition of the person under this chapter, at any time after the person attains twenty-one years of age, the places at which the person may be held under that disposition are not limited to places authorized under this chapter solely for confinement of children, and the person may be confined under that disposition, in accordance with division (F)(2) of section 2152.26 of the Revised Code, in places other than those authorized under this chapter solely for confinement of children.

(7) The juvenile court has jurisdiction over any person whose case is transferred for criminal prosecution solely for the purpose of detaining the person as authorized in division (F)(1) or (4) of section 2152.26 of the Revised Code unless the person is convicted of or pleads guilty to a felony in the adult court.

(8) Any person who, while eighteen years of age, violates division (A)(1) or (2) of section 2919.27 of the Revised Code by violating a protection order issued or consent agreement approved under section 2151.34 or 3113.31 of the Revised Code shall be considered a child for the purposes of that violation of section 2919.27 of the Revised Code.

(D) "Community corrections facility," "public safety beds," "release authority," and "supervised release" have the same meanings as in section 5139.01 of the Revised Code.

(E) "Delinquent child" includes any of the following:

(1) Any child, except a juvenile traffic offender, who violates any law of this state or the United States, or any ordinance of a political subdivision of the state, that would be an offense if committed by an adult;

(2) Any child who violates any lawful order of the court made under this chapter, including a child who violates a court order regarding the child's prior adjudication as an unruly child for being an habitual truant;

(3) Any child who violates any lawful order of the court made under Chapter 2151. of the Revised Code other than an order issued under section 2151.87 of the Revised Code;

(4) Any child who violates division (C) of section 2907.39, division (A) of section 2923.211, or division (C)(1) or (D) of section 2925.55 of the Revised Code.

(F) "Discretionary serious youthful offender" means a person who is eligible for a discretionary SYO and who is not transferred to adult court under a mandatory or discretionary transfer.

(G) "Discretionary SYO" means a case in which the juvenile court, in the juvenile court's discretion, may impose a serious youthful offender disposition under section 2152.13 of the Revised Code.

(H) "Discretionary transfer" means that the juvenile court has discretion to transfer a case for criminal prosecution under division (B) of section 2152.12 of the Revised Code.

(I) "Drug abuse offense," "felony drug abuse offense," and "minor drug possession offense" have the same meanings as in section 2925.01 of the Revised Code.

(J) "Electronic monitoring" and "electronic monitoring device" have the same meanings as in section 2929.01 of the Revised Code.

(K) "Economic loss" means any economic detriment suffered by a victim of a delinquent act or juvenile traffic offense as a direct and proximate result of the delinquent act or juvenile traffic offense and includes any loss of income due to lost time at work because of any injury caused to the victim and any property loss, medical cost, or funeral expense incurred as a result of the delinquent act or juvenile traffic offense. "Economic loss" does not include non-economic loss or any punitive or exemplary damages.

(L) "Firearm" has the same meaning as in section 2923.11 of the Revised Code.

(M) "Intellectual disability" has the same meaning as in section 5123.01 of the Revised Code.

(N) "Juvenile traffic offender" means any child who violates any traffic law, traffic ordinance, or traffic regulation of this state, the United States, or any political subdivision of this state, other than a resolution, ordinance, or regulation of a political subdivision of this state the violation of which is required to be handled by a parking violations bureau or a joint parking violations bureau pursuant to Chapter 4521, of the Revised Code.

(O) A "legitimate excuse for absence from the public school the child is supposed to attend" has the same meaning as in section 2151.011 of the Revised Code.

(P) "Mandatory serious youthful offender" means a person who is eligible for a mandatory SYO and who is not transferred to adult court under a mandatory or discretionary transfer and also includes, for purposes of imposition of a mandatory serious youthful dispositional sentence under section 2152.13 of the Revised Code, a person upon whom a juvenile court is required to impose such a sentence under division (B)(3) of section 2152.121 of the Revised Code.

(Q) "Mandatory SYO" means a case in which the juvenile court is required to impose a mandatory serious youthful offender disposition under section 2152.13 of the Revised Code.

(R) "Mandatory transfer" means that a case is required to be transferred for criminal prosecution under division (A) of section 2152.12 of the Revised Code.

(S) "Mental illness" has the same meaning as in section 5122.01 of the Revised Code.

(T) "Monitored time" and "repeat violent offender" have the same meanings as in section 2929.01 of the Revised Code.

(U) "Of compulsory school age" has the same meaning as in section 3321.01 of the Revised Code.

(V) "Public record" has the same meaning as in section 149.43 of the Revised Code.

(W) "Serious youthful offender" means a person who is eligible for a mandatory SYO or discretionary SYO but who is not transferred to adult court under a mandatory or discretionary transfer and also includes, for purposes of imposition of a mandatory serious youthful dispositional sentence under section 2152.13 of the Revised Code, a person upon whom a juvenile court is required to impose such a sentence under division (B)(3) of section 2152.121 of the Revised Code.

(X) "Sexually oriented offense," "juvenile offender registrant," "child-victim oriented offense," "tier I sex offender/child-victim offender," "tier II sex offender/child-victim offender," "tier III sex offender/child-victim offender," and "public registry-qualified juvenile offender registrant" have the same meanings as in section 2950.01 of the Revised Code.

(Y) "Traditional juvenile" means a case that is not transferred to adult court under a mandatory or discretionary transfer, that is eligible for a disposition under sections 2152.16, 2152.17, 2152.19, and 2152.20 of the Revised Code, and that is not eligible for a disposition under section 2152.13 of the Revised Code.

(Z) "Transfer" means the transfer for criminal prosecution of a case involving the alleged commission by a child of an act that would be an offense if committed by an adult from the juvenile court to the appropriate court that has jurisdiction of the offense.

(AA) "Category one offense" means any of the following:

(1) A violation of section 2903.01 or 2903.02 of the Revised Code;

(2) A violation of section 2923.02 of the Revised Code involving an attempt to commit aggravated murder or murder.

(BB) "Category two offense" means any of the following:

(1) A violation of section 2903.03, 2905.01, 2907.02, 2909.02, 2911.01, or 2911.11 of the Revised Code;

(2) A violation of section 2903.04 of the Revised Code that is a felony of the first degree;

(3) A violation of section 2907.12 of the Revised Code as it existed prior to September 3, 1996.

(CC) "Non-economic loss" means nonpecuniary harm suffered by a victim of a delinquent act or juvenile traffic offense as a result of or related to the delinquent act or juvenile traffic offense, including, but not limited to, pain and suffering; loss of society, consortium, companionship, care, assistance, attention, protection, advice, guidance, counsel, instruction, training, or education; mental anguish; and any other intangible loss.

CREDIT(S)

(2016 H 410, eff. 4-6-17; 2016 H 158, eff. 10-12-16; 2012 S 337, eff. 9-28-12; 2011 H 86, eff. 9-30-11; 2010 H 10, eff. 6-17-10; 2007 S 10, eff. 1-1-08; 2006 H 23, eff. 8-17-06; 2006 S 53, eff. 5-17-06; 2004 H 52, eff. 6-1-04; 2003 S 5, § 3, eff. 1-1-04; 2003 S 5, § 1, eff. 7-31-03; 2002 H 490, eff. 1-1-04; 2002 H 400, eff. 4-3-03; 2001 S 3, eff. 1-1-02; 2000 S 179, § 3, eff. 1-1-02)

Notes of Decisions (90)

R.C. § 2152.02, OH ST § 2152.02

Current through File 75, 77 to 81, 83 and 84 of the 132nd General Assembly (2017-2018), 2017 State Issue 1, and 2018 State Issue 1.

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**2152.10 Mandatory transfer; discretionary transfer, OH ST § 2152.10**

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KeyCite Yellow Flag - Negative Treatment

Unconstitutional or Preempted/Validity Called into Doubt by *Graham v. Florida*, U.S., May 17, 2010

KeyCite Yellow Flag - Negative Treatment

Proposed Legislation

Baldwin's Ohio Revised Code Annotated
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Title XXI. Courts--Probate--Juvenile (Refs & Annos)
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Chapter 2152. Juvenile Courts--Criminal Provisions (Refs & Annos)
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Dispositional Orders
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**R.C. § 2152.10**

**2152.10 Mandatory transfer; discretionary transfer**

Currentness

(A) A child who is alleged to be a delinquent child is eligible for mandatory transfer and shall be transferred as provided in section 2152.12 of the Revised Code in any of the following circumstances:

(1) The child is charged with a category one offense and either of the following apply:

(a) The child was sixteen years of age or older at the time of the act charged.

(b) The child was fourteen or fifteen years of age at the time of the act charged and previously was adjudicated a delinquent child for committing an act that is a category one or category two offense and was committed to the legal custody of the department of youth services upon the basis of that adjudication.

(2) The child is charged with a category two offense, other than a violation of section 2905.01 of the Revised Code, the child was sixteen years of age or older at the time of the commission of the act charged, and either or both of the following apply:

(a) The child previously was adjudicated a delinquent child for committing an act that is a category one or a category two offense and was committed to the legal custody of the department of youth services on the basis of that adjudication.

(b) The child is alleged to have had a firearm on or about the child's person or under the child's control while committing the act charged and to have displayed the firearm, brandished the firearm, indicated possession of the firearm, or used the firearm to facilitate the commission of the act charged.

## **2152.10 Mandatory transfer; discretionary transfer, OH ST § 2152.10**

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(3) Division (A)(2) of section 2152.12 of the Revised Code applies.

(B) Unless the child is subject to mandatory transfer, if a child is fourteen years of age or older at the time of the act charged and if the child is charged with an act that would be a felony if committed by an adult, the child is eligible for discretionary transfer to the appropriate court for criminal prosecution. In determining whether to transfer the child for criminal prosecution, the juvenile court shall follow the procedures in section 2152.12 of the Revised Code. If the court does not transfer the child and if the court adjudicates the child to be a delinquent child for the act charged, the court shall issue an order of disposition in accordance with section 2152.11 of the Revised Code.

### **CREDIT(S)**

(2002 H 393, eff. 7-5-02; 2000 S 179, § 3, eff. 1-1-02)

### **VALIDITY**

For validity of this section, see *Graham v. Florida*, 560 U.S. 48, 130 S.Ct. 2011 (2010).

Notes of Decisions (39)

R.C. § 2152.10, OH ST § 2152.10

Current through File 30 of the 133rd General Assembly (2019-2020).

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## 2152.12 Transfer of cases from juvenile court, OH ST § 2152.12

KeyCite Yellow Flag - Negative Treatment

Unconstitutional or Preempted Negative Treatment Reconsidered by State v. Aalim, Ohio, May 25, 2017

KeyCite Yellow Flag - Negative Treatment

Proposed Legislation

Baldwin's Ohio Revised Code Annotated
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Title XXI. Courts--Probate--Juvenile (Refs & Annos)
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Chapter 2152. Juvenile Courts--Criminal Provisions (Refs & Annos)
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Dispositional Orders
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### R.C. § 2152.12

#### 2152.12 Transfer of cases from juvenile court

Effective: October 12, 2016

Currentness

(A)(1)(a) After a complaint has been filed alleging that a child is a delinquent child for committing an act that would be aggravated murder, murder, attempted aggravated murder, or attempted murder if committed by an adult, the juvenile court at a hearing shall transfer the case if either of the following applies:

(i) The child was sixteen or seventeen years of age at the time of the act charged and there is probable cause to believe that the child committed the act charged.

(ii) The child was fourteen or fifteen years of age at the time of the act charged, section 2152.10 of the Revised Code provides that the child is eligible for mandatory transfer, and there is probable cause to believe that the child committed the act charged.

(b) After a complaint has been filed alleging that a child is a delinquent child by reason of committing a category two offense, the juvenile court at a hearing shall transfer the case if the child was sixteen or seventeen years of age at the time of the act charged and either of the following applies:

(i) Division (A)(2)(a) of section 2152.10 of the Revised Code requires the mandatory transfer of the case, and there is probable cause to believe that the child committed the act charged.

(ii) Division (A)(2)(b) of section 2152.10 of the Revised Code requires the mandatory transfer of the case, and there is probable cause to believe that the child committed the act charged.

## 2152.12 Transfer of cases from juvenile court, OH ST § 2152.12

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(2) The juvenile court also shall transfer a case in the circumstances described in division (C)(5) of section 2152.02 of the Revised Code or if either of the following applies:

(a) A complaint is filed against a child who is eligible for a discretionary transfer under section 2152.10 of the Revised Code and who previously was convicted of or pleaded guilty to a felony in a case that was transferred to a criminal court.

(b) A complaint is filed against a child who is domiciled in another state alleging that the child is a delinquent child for committing an act that would be a felony if committed by an adult, and, if the act charged had been committed in that other state, the child would be subject to criminal prosecution as an adult under the law of that other state without the need for a transfer of jurisdiction from a juvenile, family, or similar noncriminal court to a criminal court.

(3) If a complaint is filed against a child alleging that the child is a delinquent child and the case is transferred pursuant to division (A)(1)(a)(i) or (A)(1)(b)(ii) of this section and if the child subsequently is convicted of or pleads guilty to an offense in that case, the sentence to be imposed or disposition to be made of the child shall be determined in accordance with section 2152.121 of the Revised Code.

(B) Except as provided in division (A) of this section, after a complaint has been filed alleging that a child is a delinquent child for committing an act that would be a felony if committed by an adult, the juvenile court at a hearing may transfer the case if the court finds all of the following:

(1) The child was fourteen years of age or older at the time of the act charged.

(2) There is probable cause to believe that the child committed the act charged.

(3) The child is not amenable to care or rehabilitation within the juvenile system, and the safety of the community may require that the child be subject to adult sanctions. In making its decision under this division, the court shall consider whether the applicable factors under division (D) of this section indicating that the case should be transferred outweigh the applicable factors under division (E) of this section indicating that the case should not be transferred. The record shall indicate the specific factors that were applicable and that the court weighed.

(C) Before considering a transfer under division (B) of this section, the juvenile court shall order an investigation into the child's social history, education, family situation, and any other factor bearing on whether the child is amenable to juvenile rehabilitation, including a mental examination of the child by a public or private agency or a person qualified to make the examination. The investigation shall be completed and a report on the investigation shall be submitted to the court as soon as possible but not more than forty-five calendar days after the court orders the investigation. The court may grant one or more extensions for a reasonable length of time. The child may waive the examination required by this division if the court finds that the waiver is competently and intelligently made. Refusal to submit to a mental examination by the child constitutes a



waiver of the examination.

(D) In considering whether to transfer a child under division (B) of this section, the juvenile court shall consider the following relevant factors, and any other relevant factors, in favor of a transfer under that division:

- (1) The victim of the act charged suffered physical or psychological harm, or serious economic harm, as a result of the alleged act.
- (2) The physical or psychological harm suffered by the victim due to the alleged act of the child was exacerbated because of the physical or psychological vulnerability or the age of the victim.
- (3) The child's relationship with the victim facilitated the act charged.
- (4) The child allegedly committed the act charged for hire or as a part of a gang or other organized criminal activity.
- (5) The child had a firearm on or about the child's person or under the child's control at the time of the act charged, the act charged is not a violation of section 2923.12 of the Revised Code, and the child, during the commission of the act charged, allegedly used or displayed the firearm, brandished the firearm, or indicated that the child possessed a firearm.
- (6) At the time of the act charged, the child was awaiting adjudication or disposition as a delinquent child, was under a community control sanction, or was on parole for a prior delinquent child adjudication or conviction.
- (7) The results of any previous juvenile sanctions and programs indicate that rehabilitation of the child will not occur in the juvenile system.
- (8) The child is emotionally, physically, or psychologically mature enough for the transfer.
- (9) There is not sufficient time to rehabilitate the child within the juvenile system.

(E) In considering whether to transfer a child under division (B) of this section, the juvenile court shall consider the following relevant factors, and any other relevant factors, against a transfer under that division:

**2152.12 Transfer of cases from juvenile court, OH ST § 2152.12**

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- (1) The victim induced or facilitated the act charged.
  - (2) The child acted under provocation in allegedly committing the act charged.
  - (3) The child was not the principal actor in the act charged, or, at the time of the act charged, the child was under the negative influence or coercion of another person.
  - (4) The child did not cause physical harm to any person or property, or have reasonable cause to believe that harm of that nature would occur, in allegedly committing the act charged.
  - (5) The child previously has not been adjudicated a delinquent child.
  - (6) The child is not emotionally, physically, or psychologically mature enough for the transfer.
  - (7) The child has a mental illness or intellectual disability.
  - (8) There is sufficient time to rehabilitate the child within the juvenile system and the level of security available in the juvenile system provides a reasonable assurance of public safety.
- (F) If one or more complaints are filed alleging that a child is a delinquent child for committing two or more acts that would be offenses if committed by an adult, if a motion is made alleging that division (A) of this section applies and requires that the case or cases involving one or more of the acts charged be transferred, and if a motion also is made requesting that the case or cases involving one or more of the acts charged be transferred pursuant to division (B) of this section, the juvenile court, in deciding the motions, shall proceed in the following manner:
- (1) Initially, the court shall decide the motion alleging that division (A) of this section applies and requires that the case or cases involving one or more of the acts charged be transferred.
  - (2) If the court determines that division (A) of this section applies and requires that the case or cases involving one or more of the acts charged be transferred, the court shall transfer the case or cases in accordance with that division. After the transfer pursuant to division (A) of this section, the court shall decide, in accordance with division (B) of this section, whether to grant the motion requesting that the case or cases involving one or more of the acts charged be transferred pursuant to that division. Notwithstanding division (B) of this section, prior to transferring a case pursuant to division (A) of this section, the court is not required to consider any factor specified in division (D) or (E) of this section or to conduct an investigation under division (C) of this section.

## 2152.12 Transfer of cases from juvenile court, OH ST § 2152.12

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(3) If the court determines that division (A) of this section does not require that the case or cases involving one or more of the acts charged be transferred, the court shall decide in accordance with division (B) of this section whether to grant the motion requesting that the case or cases involving one or more of the acts charged be transferred pursuant to that division.

(4) No report on an investigation conducted pursuant to division (C) of this section shall include details of the alleged offense as reported by the child.

(G) The court shall give notice in writing of the time, place, and purpose of any hearing held pursuant to division (A) or (B) of this section to the child's parents, guardian, or other custodian and to the child's counsel at least three days prior to the hearing.

(H) No person, either before or after reaching eighteen years of age, shall be prosecuted as an adult for an offense committed prior to becoming eighteen years of age, unless the person has been transferred as provided in division (A) or (B) of this section or unless division (J) of this section applies. Any prosecution that is had in a criminal court on the mistaken belief that the person who is the subject of the case was eighteen years of age or older at the time of the commission of the offense shall be deemed a nullity, and the person shall not be considered to have been in jeopardy on the offense.

(I) Upon the transfer of a case under division (A) or (B) of this section, the juvenile court shall state the reasons for the transfer on the record, and shall order the child to enter into a recognizance with good and sufficient surety for the child's appearance before the appropriate court for any disposition that the court is authorized to make for a similar act committed by an adult. The transfer abates the jurisdiction of the juvenile court with respect to the delinquent acts alleged in the complaint, and, upon the transfer, all further proceedings pertaining to the act charged shall be discontinued in the juvenile court, and the case then shall be within the jurisdiction of the court to which it is transferred as described in division (H) of section 2151.23 of the Revised Code.

(J) If a person under eighteen years of age allegedly commits an act that would be a felony if committed by an adult and if the person is not taken into custody or apprehended for that act until after the person attains twenty-one years of age, the juvenile court does not have jurisdiction to hear or determine any portion of the case charging the person with committing that act. In those circumstances, divisions (A) and (B) of this section do not apply regarding the act, and the case charging the person with committing the act shall be a criminal prosecution commenced and heard in the appropriate court having jurisdiction of the offense as if the person had been eighteen years of age or older when the person committed the act. All proceedings pertaining to the act shall be within the jurisdiction of the court having jurisdiction of the offense, and that court has all the authority and duties in the case as it has in other criminal cases in that court.

### CREDIT(S)

(2016 H 158, eff. 10-12-16; 2012 S 337, eff. 9-28-12; 2011 H 86, eff. 9-30-11; 2000 S 179, § 3, eff. 1-1-02)

Notes of Decisions (290)

**2152.12 Transfer of cases from juvenile court, OH ST § 2152.12**

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R.C. § 2152.12, OH ST § 2152.12

Current through File 30 of the 133rd General Assembly (2019-2020).

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Proposed Legislation

Baldwin's Ohio Revised Code Annotated  
Title XXI. Courts--Probate--Juvenile (Refs & Annos)  
Chapter 2152. Juvenile Courts--Criminal Provisions (Refs & Annos)  
Dispositional Orders

R.C. § 2152.13

2152.13 Serious youthful offender dispositional sentence

Effective: September 30, 2011  
Currentness

(A) A juvenile court shall impose a serious youthful dispositional sentence on a child when required under division (B)(3) of section 2152.121 of the Revised Code. In such a case, the remaining provisions of this division and divisions (B) and (C) do not apply to the child, and the court shall impose the mandatory serious youthful dispositional sentence under division (D)(1) of this section.

In all other cases, a juvenile court may impose a serious youthful offender dispositional sentence on a child only if the prosecuting attorney of the county in which the delinquent act allegedly occurred initiates the process against the child in accordance with this division, and the child is an alleged delinquent child who is eligible for the dispositional sentence. The prosecuting attorney may initiate the process in any of the following ways:

- (1) Obtaining an indictment of the child as a serious youthful offender;
- (2) The child waives the right to indictment, charging the child in a bill of information as a serious youthful offender;
- (3) Until an indictment or information is obtained, requesting a serious youthful offender dispositional sentence in the original complaint alleging that the child is a delinquent child;
- (4) Until an indictment or information is obtained, if the original complaint does not request a serious youthful offender dispositional sentence, filing with the juvenile court a written notice of intent to seek a serious youthful offender dispositional sentence within twenty days after the later of the following, unless the time is extended by the juvenile court for good cause shown:
  - (a) The date of the child's first juvenile court hearing regarding the complaint;
  - (b) The date the juvenile court determines not to transfer the case under section 2152.12 of the Revised Code.

After a written notice is filed under division (A)(4) of this section, the juvenile court shall serve a copy of the notice on the child and advise the child of the prosecuting attorney's intent to seek a serious youthful offender dispositional sentence in the case.

(B) If an alleged delinquent child is not indicted or charged by information as described in division (A)(1) or (2) of this section and if a notice or complaint as described in division (A)(3) or (4) of this section indicates that the prosecuting attorney intends to pursue a serious youthful offender dispositional sentence in the case, the juvenile court shall hold a preliminary hearing to determine if there is probable cause that the child committed the act charged and is by age eligible for, or required to receive, a serious youthful offender dispositional sentence.

(C)(1) A child for whom a serious youthful offender dispositional sentence is sought by a prosecuting attorney has the right to a grand jury determination of probable cause that the child committed the act charged and that the child is eligible by age for a serious youthful offender dispositional sentence. The grand jury may be impaneled by the court of common pleas or the juvenile court.

Once a child is indicted, or charged by information or the juvenile court determines that the child is eligible for a serious youthful offender dispositional sentence, the child is entitled to an open and speedy trial by jury in juvenile court and to be provided with a transcript of the proceedings. The time within which the trial is to be held under Title XXIX of the Revised Code commences on whichever of the following dates is applicable:

(a) If the child is indicted or charged by information, on the date of the filing of the indictment or information.

(b) If the child is charged by an original complaint that requests a serious youthful offender dispositional sentence, on the date of the filing of the complaint.

(c) If the child is not charged by an original complaint that requests a serious youthful offender dispositional sentence, on the date that the prosecuting attorney files the written notice of intent to seek a serious youthful offender dispositional sentence.

(2) If the child is detained awaiting adjudication, upon indictment or being charged by information, the child has the same right to bail as an adult charged with the offense the alleged delinquent act would be if committed by an adult. Except as provided in division (D) of section 2152.14 of the Revised Code, all provisions of Title XXIX of the Revised Code and the Criminal Rules shall apply in the case and to the child. The juvenile court shall afford the child all rights afforded a person who is prosecuted for committing a crime including the right to counsel and the right to raise the issue of competency. The child may not waive the right to counsel.

(D)(1) If a child is adjudicated a delinquent child for committing an act under circumstances that require the juvenile court to impose upon the child a serious youthful offender dispositional sentence under section 2152.11 of the Revised Code, all of the following apply:

(a) The juvenile court shall impose upon the child a sentence available for the violation, as if the child were an adult, under Chapter 2929, of the Revised Code, except that the juvenile court shall not impose on the child a sentence of death or life imprisonment without parole.

(b) The juvenile court also shall impose upon the child one or more traditional juvenile dispositions under sections 2152.16, 2152.19, and 2152.20, and, if applicable, section 2152.17 of the Revised Code.

(c) The juvenile court shall stay the adult portion of the serious youthful offender dispositional sentence pending the successful completion of the traditional juvenile dispositions imposed.

(2)(a) If a child is adjudicated a delinquent child for committing an act under circumstances that allow, but do not require, the juvenile court to impose on the child a serious youthful offender dispositional sentence under section 2152.11 of the Revised Code, all of the following apply:

(i) If the juvenile court on the record makes a finding that, given the nature and circumstances of the violation and the history of the child, the length of time, level of security, and types of programming and resources available in the juvenile system alone are not adequate to provide the juvenile court with a reasonable expectation that the purposes set forth in section 2152.01 of the Revised Code will be met, the juvenile court may impose upon the child a sentence available for the violation, as if the child were an adult, under Chapter 2929. of the Revised Code, except that the juvenile court shall not impose on the child a sentence of death or life imprisonment without parole.

(ii) If a sentence is imposed under division (D)(2)(a)(i) of this section, the juvenile court also shall impose upon the child one or more traditional juvenile dispositions under sections 2152.16, 2152.19, and 2152.20 and, if applicable, section 2152.17 of the Revised Code.

(iii) The juvenile court shall stay the adult portion of the serious youthful offender dispositional sentence pending the successful completion of the traditional juvenile dispositions imposed.

(b) If the juvenile court does not find that a sentence should be imposed under division (D)(2)(a)(i) of this section, the juvenile court may impose one or more traditional juvenile dispositions under sections 2152.16, 2152.19, 2152.20, and, if applicable, section 2152.17 of the Revised Code.

(3) A child upon whom a serious youthful offender dispositional sentence is imposed under division (D)(1) or (2) of this section has a right to appeal under division (A)(1), (3), (4), or (5) of section 2953.08 of the Revised Code the adult portion of the serious youthful offender dispositional sentence when any of those divisions apply. The child may appeal the adult portion, and the court shall consider the appeal as if the adult portion were not stayed.

#### CREDIT(S)

(2011 H 86, eff. 9-30-11; 2002 H 393, eff. 7-5-02; 2000 S 179, § 3, eff. 1-1-02)

#### Notes of Decisions (13)

R.C. § 2152.13, OH ST § 2152.13

Current through File 75, 77 to 81, 83 and 84 of the 132nd General Assembly (2017-2018), 2017 State Issue 1, and 2018 State Issue 1.

2152.14 Invoking adult portion of sentence, OH ST § 2152.14

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KeyCite Yellow Flag - Negative Treatment  
Proposed Legislation

Baldwin's Ohio Revised Code Annotated

Title XXI. Courts--Probate--Juvenile (Refs & Annos)

Chapter 2152. Juvenile Courts--Criminal Provisions (Refs & Annos)

Dispositional Orders

R.C. § 2152.14

2152.14 Invoking adult portion of sentence

Effective: October 12, 2016

Currentness

(A)(1) The director of youth services may request the prosecuting attorney of the county in which is located the juvenile court that imposed a serious youthful offender dispositional sentence upon a person under section 2152.121 or 2152.13 of the Revised Code to file a motion with that juvenile court to invoke the adult portion of the dispositional sentence if all of the following apply to the person:

(a) The person is at least fourteen years of age.

(b) The person is in the institutional custody, or an escapee from the custody, of the department of youth services.

(c) The person is serving the juvenile portion of the serious youthful offender dispositional sentence.

(2) The motion shall state that there is reasonable cause to believe that either of the following misconduct has occurred and shall state that at least one incident of misconduct of that nature occurred after the person reached fourteen years of age:

(a) The person committed an act that is a violation of the rules of the institution and that could be charged as any felony or as a first degree misdemeanor offense of violence if committed by an adult.

(b) The person has engaged in conduct that creates a substantial risk to the safety or security of the institution, the community, or the victim.



## 2152.14 Invoking adult portion of sentence, OH ST § 2152.14

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(B) If a person is at least fourteen years of age, is serving the juvenile portion of a serious youthful offender dispositional sentence imposed under section 2152.121 or 2152.13 of the Revised Code, and is on parole or aftercare from a department of youth services facility, or on community control, the director of youth services, the juvenile court that imposed the serious youthful offender dispositional sentence on the person, or the probation department supervising the person may request the prosecuting attorney of the county in which is located the juvenile court to file a motion with the juvenile court to invoke the adult portion of the dispositional sentence. The prosecuting attorney may file a motion to invoke the adult portion of the dispositional sentence even if no request is made. The motion shall state that there is reasonable cause to believe that either of the following occurred and shall state that at least one incident of misconduct of that nature occurred after the person reached fourteen years of age:

(1) The person committed an act that is a violation of the conditions of supervision and that could be charged as any felony or as a first degree misdemeanor offense of violence if committed by an adult.

(2) The person has engaged in conduct that creates a substantial risk to the safety or security of the community or of the victim.

(C) If the prosecuting attorney declines a request to file a motion that was made by the department of youth services or the supervising probation department under division (A) or (B) of this section or fails to act on a request made under either division by the department within a reasonable time, the department of youth services or the supervising probation department may file a motion of the type described in division (A) or (B) of this section with the juvenile court to invoke the adult portion of the serious youthful offender dispositional sentence. If the prosecuting attorney declines a request to file a motion that was made by the juvenile court under division (B) of this section or fails to act on a request from the court under that division within a reasonable time, the juvenile court may hold the hearing described in division (D) of this section on its own motion.

(D) Upon the filing of a motion described in division (A), (B), or (C) of this section, the juvenile court may hold a hearing to determine whether to invoke the adult portion of a person's serious juvenile offender dispositional sentence. The juvenile court shall not invoke the adult portion of the dispositional sentence without a hearing. At the hearing the person who is the subject of the serious youthful offender disposition has the right to be present, to receive notice of the grounds upon which the adult sentence portion is sought to be invoked, to be represented by counsel including counsel appointed under Juvenile Rule 4(A), to be advised on the procedures and protections set forth in the Juvenile Rules, and to present evidence on the person's own behalf, including evidence that the person has a mental illness or intellectual disability. The person may not waive the right to counsel. The hearing shall be open to the public. If the person presents evidence that the person has a mental illness or intellectual disability, the juvenile court shall consider that evidence in determining whether to invoke the adult portion of the serious youthful offender dispositional sentence.

(E)(1) The juvenile court may invoke the adult portion of a person's serious youthful offender dispositional sentence if the juvenile court finds all of the following on the record by clear and convincing evidence:

(a) The person is serving the juvenile portion of a serious youthful offender dispositional sentence.

## 2152.14 Invoking adult portion of sentence, OH ST § 2152.14

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(b) The person is at least fourteen years of age and has been admitted to a department of youth services facility, or criminal charges are pending against the person.

(c) The person engaged in the conduct or acts charged under division (A), (B), or (C) of this section, and the person's conduct demonstrates that the person is unlikely to be rehabilitated during the remaining period of juvenile jurisdiction.

(2) The court may modify the adult sentence the court invokes to consist of any lesser prison term that could be imposed for the offense and, in addition to the prison term or in lieu of the prison term if the prison term was not mandatory, any community control sanction that the offender was eligible to receive at sentencing.

(F) If a juvenile court issues an order invoking the adult portion of a serious youthful offender dispositional sentence under division (E) of this section, the juvenile portion of the dispositional sentence shall terminate, and the department of youth services shall transfer the person to the department of rehabilitation and correction or place the person under another sanction imposed as part of the sentence. The juvenile court shall state in its order the total number of days that the person has been held in detention or in a facility operated by, or under contract with, the department of youth services under the juvenile portion of the dispositional sentence. The time the person must serve on a prison term imposed under the adult portion of the dispositional sentence shall be reduced by the total number of days specified in the order plus any additional days the person is held in a juvenile facility or in detention after the order is issued and before the person is transferred to the custody of the department of rehabilitation and correction. In no case shall the total prison term as calculated under this division exceed the maximum prison term available for an adult who is convicted of violating the same sections of the Revised Code.

Any community control imposed as part of the adult sentence or as a condition of a judicial release from prison shall be under the supervision of the entity that provides adult probation services in the county. Any post-release control imposed after the offender otherwise is released from prison shall be supervised by the adult parole authority.

### CREDIT(S)

(2016 H 158, eff. 10-12-16; 2011 H 86, eff. 9-30-11; 2002 H 393, eff. 7-5-02; 2000 S 179, § 3, eff. 1-1-02)

Notes of Decisions (14)

R.C. § 2152.14, OH ST § 2152.14  
Current through File 30 of the 133rd General Assembly (2019-2020).

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Proposed Legislation

Baldwin's Ohio Revised Code Annotated

Title XXI. Courts--Probate--Juvenile (Refs & Annos)

Chapter 2152. Juvenile Courts--Criminal Provisions (Refs & Annos)

Dispositional Orders

R.C. § 2152.16

2152.16 Commitment of delinquent children to custody of youth services department

Currentness

(A)(1) If a child is adjudicated a delinquent child for committing an act that would be a felony if committed by an adult, the juvenile court may commit the child to the legal custody of the department of youth services for secure confinement as follows:

(a) For an act that would be aggravated murder or murder if committed by an adult, until the offender attains twenty-one years of age;

(b) For a violation of section 2923.02 of the Revised Code that involves an attempt to commit an act that would be aggravated murder or murder if committed by an adult, a minimum period of six to seven years as prescribed by the court and a maximum period not to exceed the child's attainment of twenty-one years of age;

(c) For a violation of section 2903.03, 2905.01, 2909.02, or 2911.01 or division (A) of section 2903.04 of the Revised Code or for a violation of any provision of section 2907.02 of the Revised Code other than division (A)(1)(b) of that section when the sexual conduct or insertion involved was consensual and when the victim of the violation of division (A)(1)(b) of that section was older than the delinquent child, was the same age as the delinquent child, or was less than three years younger than the delinquent child, for an indefinite term consisting of a minimum period of one to three years, as prescribed by the court, and a maximum period not to exceed the child's attainment of twenty-one years of age;

(d) If the child is adjudicated a delinquent child for committing an act that is not described in division (A)(1)(b) or (c) of this section and that would be a felony of the first or second degree if committed by an adult, for an indefinite term consisting of a minimum period of one year and a maximum period not to exceed the child's attainment of twenty-one years of age.

(e) For committing an act that would be a felony of the third, fourth, or fifth degree if committed by an adult or for a violation of division (A) of section 2923.211 of the Revised Code, for an indefinite term consisting of a minimum period of six months and a maximum period not to exceed the child's attainment of twenty-one years of age.

(2) In each case in which a court makes a disposition under this section, the court retains control over the commitment for the minimum period specified by the court in divisions (A)(1)(a) to (e) of this section. During the minimum period,

the department of youth services shall not move the child to a nonsecure setting without the permission of the court that imposed the disposition.

(B) (1) Subject to division (B)(2) of this section, if a delinquent child is committed to the department of youth services under this section, the department may release the child at any time after the minimum period specified by the court in division (A)(1) of this section ends.

(2) A commitment under this section is subject to a supervised release or to a discharge of the child from the custody of the department for medical reasons pursuant to section 5139.54 of the Revised Code, but, during the minimum period specified by the court in division (A)(1) of this section, the department shall obtain court approval of a supervised release or discharge under that section.

(C) If a child is adjudicated a delinquent child, at the dispositional hearing and prior to making any disposition pursuant to this section, the court shall determine whether the delinquent child previously has been adjudicated a delinquent child for a violation of a law or ordinance. If the delinquent child previously has been adjudicated a delinquent child for a violation of a law or ordinance, the court, for purposes of entering an order of disposition of the delinquent child under this section, shall consider the previous delinquent child adjudication as a conviction of a violation of the law or ordinance in determining the degree of the offense the current act would be had it been committed by an adult. This division also shall apply in relation to the imposition of any financial sanction under section 2152.19 of the Revised Code.

**CREDIT(S)**

(2002 H 393, eff. 7-5-02; 2000 § 179, § 3, eff. 1-1-02)

**Notes of Decisions (9)**

R.C. § 2152.16, OH ST § 2152.16

Current through File 75, 77 to 81, 83 and 84 of the 132nd General Assembly (2017-2018), 2017 State Issue 1, and 2018 State Issue 1.

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Proposed Legislation

Baldwin's Ohio Revised Code Annotated  
Title XXI, Courts--Probate--Juvenile (Refs & Annots)  
Chapter 2152, Juvenile Courts--Criminal Provisions (Refs & Annots)  
Dispositional Orders

R.C. § 2152.19

2152.19 Additional disposition orders for delinquent children

Effective: April 6, 2017  
Currentness

(A) If a child is adjudicated a delinquent child, the court may make any of the following orders of disposition, in addition to any other disposition authorized or required by this chapter:

(1) Any order that is authorized by section 2151.353 of the Revised Code for the care and protection of an abused, neglected, or dependent child;

(2) Commit the child to the temporary custody of any school, camp, institution, or other facility operated for the care of delinquent children by the county, by a district organized under section 2152.41 or 2151.65 of the Revised Code, or by a private agency or organization, within or without the state, that is authorized and qualified to provide the care, treatment, or placement required, including, but not limited to, a school, camp, or facility operated under section 2151.65 of the Revised Code;

(3) Place the child in a detention facility or district detention facility operated under section 2152.41 of the Revised Code, for up to ninety days;

(4) Place the child on community control under any sanctions, services, and conditions that the court prescribes. As a condition of community control in every case and in addition to any other condition that it imposes upon the child, the court shall require the child to abide by the law during the period of community control. As referred to in this division, community control includes, but is not limited to, the following sanctions and conditions:

(a) A period of basic probation supervision in which the child is required to maintain contact with a person appointed to supervise the child in accordance with sanctions imposed by the court;

(b) A period of intensive probation supervision in which the child is required to maintain frequent contact with a person appointed by the court to supervise the child while the child is seeking or maintaining employment and participating in training, education, and treatment programs as the order of disposition;

(c) A period of day reporting in which the child is required each day to report to and leave a center or another approved reporting location at specified times in order to participate in work, education or training, treatment, and other approved programs at the center or outside the center;

(d) A period of community service of up to five hundred hours for an act that would be a felony or a misdemeanor of the first degree if committed by an adult, up to two hundred hours for an act that would be a misdemeanor of the second, third, or fourth degree if committed by an adult, or up to thirty hours for an act that would be a minor misdemeanor if committed by an adult;

(e) A requirement that the child obtain a high school diploma, a certificate of high school equivalence, vocational training, or employment;

(f) A period of drug and alcohol use monitoring;

(g) A requirement of alcohol or drug assessment or counseling, or a period in an alcohol or drug treatment program with a level of security for the child as determined necessary by the court;

(h) A period in which the court orders the child to observe a curfew that may involve daytime or evening hours;

(i) A requirement that the child serve monitored time;

(j) A period of house arrest without electronic monitoring or continuous alcohol monitoring;

(k) A period of electronic monitoring or continuous alcohol monitoring without house arrest, or house arrest with electronic monitoring or continuous alcohol monitoring or both electronic monitoring and continuous alcohol monitoring, that does not exceed the maximum sentence of imprisonment that could be imposed upon an adult who commits the same act.

A period of house arrest with electronic monitoring or continuous alcohol monitoring or both electronic monitoring and continuous alcohol monitoring, imposed under this division shall not extend beyond the child's twenty-first birthday. If a court imposes a period of house arrest with electronic monitoring or continuous alcohol monitoring or both electronic monitoring and continuous alcohol monitoring, upon a child under this division, it shall require the child: to remain in the child's home or other specified premises for the entire period of house arrest with electronic monitoring or continuous alcohol monitoring or both except when the court permits the child to leave those premises to go to school or to other specified premises. Regarding electronic monitoring, the court also shall require the child to be monitored by a central system that can determine the child's location at designated times; to report periodically to a person designated by the court; and to enter into a written contract with the court agreeing to comply with all requirements imposed by the court, agreeing to pay any fee imposed by the court for the costs of the house arrest with electronic monitoring, and agreeing to waive the right to receive credit for any time served on house arrest with electronic monitoring toward the period of any other dispositional order imposed upon the child if the child violates any of the requirements of the dispositional order of house arrest with electronic monitoring. The court also may impose other reasonable requirements upon the child.

Unless ordered by the court, a child shall not receive credit for any time served on house arrest with electronic monitoring or continuous alcohol monitoring or both toward any other dispositional order imposed upon the child for the act for which was imposed the dispositional order of house arrest with electronic monitoring or continuous alcohol monitoring. As used in this division and division (A)(4)(l) of this section, "continuous alcohol monitoring" has the same meaning as in section 2929.01 of the Revised Code.

(l) A suspension of the driver's license, probationary driver's license, or temporary instruction permit issued to the child for a period of time prescribed by the court, or a suspension of the registration of all motor vehicles registered in the name of the child for a period of time prescribed by the court. A child whose license or permit is so suspended is ineligible for issuance of a license or permit during the period of suspension. At the end of the period of suspension, the child shall not be reissued a license or permit until the child has paid any applicable reinstatement fee and complied with all requirements governing license reinstatement.

(5) Commit the child to the custody of the court;

(6) Require the child to not be absent without legitimate excuse from the public school the child is supposed to attend for thirty or more consecutive hours, forty-two or more hours in one school month, or seventy-two or more hours in a school year;

(7)(a) If a child is adjudicated a delinquent child for violating a court order regarding the child's prior adjudication as an unruly child for being a habitual truant, do either or both of the following:

(i) Require the child to participate in a truancy prevention mediation program;

(ii) Make any order of disposition as authorized by this section, except that the court shall not commit the child to a facility described in division (A)(2) or (3) of this section unless the court determines that the child violated a lawful court order made pursuant to division (C)(1)(e) of section 2151.354 of the Revised Code or division (A)(6) of this section.

(b) If a child is adjudicated a delinquent child for violating a court order regarding the child's prior adjudication as an unruly child for being a habitual truant and the court determines that the parent, guardian, or other person having care of the child has failed to cause the child's attendance at school in violation of section 3321.38 of the Revised Code, do either or both of the following:

(i) Require the parent, guardian, or other person having care of the child to participate in a truancy prevention mediation program;

(ii) Require the parent, guardian, or other person having care of the child to participate in any community service program, preferably a community service program that requires the involvement of the parent, guardian, or other person having care of the child in the school attended by the child.

(8) Make any further disposition that the court finds proper, except that the child shall not be placed in a state correctional institution, a county, multicounty, or municipal jail or workhouse, or another place in which an adult convicted of a crime, under arrest, or charged with a crime is held.

(B) If a child is adjudicated a delinquent child, in addition to any order of disposition made under division (A) of this section, the court, in the following situations and for the specified periods of time, shall suspend the child's temporary instruction permit, restricted license, probationary driver's license, or nonresident operating privilege, or suspend the child's ability to obtain such a permit:

(1) If the child is adjudicated a delinquent child for violating section 2923.122 of the Revised Code, impose a class four suspension of the child's license, permit, or privilege from the range specified in division (A)(4) of section 4510.02 of the Revised Code or deny the child the issuance of a license or permit in accordance with division (F)(1) of section 2923.122 of the Revised Code.

(2) If the child is adjudicated a delinquent child for committing an act that if committed by an adult would be a drug abuse offense or for violating division (B) of section 2917.11 of the Revised Code, suspend the child's license, permit, or privilege for a period of time prescribed by the court. The court, in its discretion, may terminate the suspension if the child attends and satisfactorily completes a drug abuse or alcohol abuse education, intervention, or treatment program specified by the court. During the time the child is attending a program described in this division, the court shall retain the child's temporary instruction permit, probationary driver's license, or driver's license, and the court shall return the permit or license if it terminates the suspension as described in this division.

(C) The court may establish a victim-offender mediation program in which victims and their offenders meet to discuss the offense and suggest possible restitution. If the court obtains the assent of the victim of the delinquent act committed by the child, the court may require the child to participate in the program.

(D)(1) If a child is adjudicated a delinquent child for committing an act that would be a felony if committed by an adult and if the child caused, attempted to cause, threatened to cause, or created a risk of physical harm to the victim of the act, the court, prior to issuing an order of disposition under this section, shall order the preparation of a victim impact statement by the probation department of the county in which the victim of the act resides, by the court's own probation department, or by a victim assistance program that is operated by the state, a county, a municipal corporation, or another governmental entity. The court shall consider the victim impact statement in determining the order of disposition to issue for the child.

(2) Each victim impact statement shall identify the victim of the act for which the child was adjudicated a delinquent child, itemize any economic loss suffered by the victim as a result of the act, identify any physical injury suffered by the victim as a result of the act and the seriousness and permanence of the injury, identify any change in the victim's personal welfare or familial relationships as a result of the act and any psychological impact experienced by the victim or the victim's family as a result of the act, and contain any other information related to the impact of the act upon the victim that the court requires.

(3) A victim impact statement shall be kept confidential and is not a public record. However, the court may furnish copies of the statement to the department of youth services if the delinquent child is committed to the department or to both the



adjudicated delinquent child or the adjudicated delinquent child's counsel and the prosecuting attorney. The copy of a victim impact statement furnished by the court to the department pursuant to this section shall be kept confidential and is not a public record. If an officer is preparing pursuant to section 2947.06 or 2951.03 of the Revised Code or Criminal Rule 32.2 a presentence investigation report pertaining to a person, the court shall make available to the officer, for use in preparing the report, a copy of any victim impact statement regarding that person. The copies of a victim impact statement that are made available to the adjudicated delinquent child or the adjudicated delinquent child's counsel and the prosecuting attorney pursuant to this division shall be returned to the court by the person to whom they were made available immediately following the imposition of an order of disposition for the child under this chapter.

The copy of a victim impact statement that is made available pursuant to this division to an officer preparing a criminal presentence investigation report shall be returned to the court by the officer immediately following its use in preparing the report.

(4) The department of youth services shall work with local probation departments and victim assistance programs to develop a standard victim impact statement.

(B)(1) If a child is adjudicated a delinquent child for violating a court order regarding the child's prior adjudication as an unruly child for being a habitual truant and the court determines that the parent, guardian, or other person having care of the child has failed to cause the child's attendance at school in violation of section 3321.38 of the Revised Code, in addition to any order of disposition it makes under this section, the court shall warn the parent, guardian, or other person having care of the child that any subsequent adjudication with regard to truancy may result in a criminal charge against the parent, guardian, or other person having care of the child for a violation of division (C) of section 2919.21 or section 2919.24 of the Revised Code.

(2) Not later than ten days after a child is adjudicated a delinquent child for violating a court order regarding the child's prior adjudication as an unruly child for being an habitual truant, the court shall provide notice of that fact to the school district in which the child is entitled to attend school and to the school in which the child was enrolled at the time of the filing of the complaint.

(F)(1) During the period of a delinquent child's community control granted under this section, authorized probation officers who are engaged within the scope of their supervisory duties or responsibilities may search, with or without a warrant, the person of the delinquent child, the place of residence of the delinquent child, and a motor vehicle, another item of tangible or intangible personal property, or other real property in which the delinquent child has a right, title, or interest or for which the delinquent child has the express or implied permission of a person with a right, title, or interest to use, occupy, or possess if the probation officers have reasonable grounds to believe that the delinquent child is not abiding by the law or otherwise is not complying with the conditions of the delinquent child's community control. The court that places a delinquent child on community control under this section shall provide the delinquent child with a written notice that informs the delinquent child that authorized probation officers who are engaged within the scope of their supervisory duties or responsibilities may conduct those types of searches during the period of community control if they have reasonable grounds to believe that the delinquent child is not abiding by the law or otherwise is not complying with the conditions of the delinquent child's community control. The court also shall provide the written notice described in division (E)(2) of this section to each parent, guardian, or custodian of the delinquent child who is described in that division.

(2) The court that places a child on community control under this section shall provide the child's parent, guardian, or other custodian with a written notice that informs them that authorized probation officers may conduct searches

pursuant to division (E)(1) of this section. The notice shall specifically state that a permissible search might extend to a motor vehicle, another item of tangible or intangible personal property, or a place of residence or other real property in which a notified parent, guardian, or custodian has a right, title, or interest and that the parent, guardian, or custodian expressly or impliedly permits the child to use, occupy, or possess.

(G) If a juvenile court commits a delinquent child to the custody of any person, organization, or entity pursuant to this section and if the delinquent act for which the child is so committed is a sexually oriented offense or is a child-victim oriented offense, the court in the order of disposition shall do one of the following:

(1) Require that the child be provided treatment as described in division (A)(2) of section 5139.13 of the Revised Code;

(2) Inform the person, organization, or entity that it is the preferred course of action in this state that the child be provided treatment as described in division (A)(2) of section 5139.13 of the Revised Code and encourage the person, organization, or entity to provide that treatment.

#### CREDIT(S)

(2016 H 410, eff. 4-6-17; 2014 H 483, eff. 9-15-14; 2007 S 10, eff. 1-1-08; 2004 H 163, eff. 9-23-04; 2003 S 5, § 3, eff. 1-1-04; 2003 S 5, § 1, eff. 7-31-03; 2003 H 95, § 3.13, eff. 1-1-04; 2003 H 95, § 1, eff. 9-26-03; 2002 H 490, eff. 1-1-04; 2002 H 400, § 4, eff. 1-1-04; 2002 H 400, § 1, eff. 4-3-03; 2002 S 123, eff. 1-1-04; 2002 H 393, eff. 7-5-02; 2002 H 247, eff. 5-30-02; 2001 S 3, eff. 1-1-02; 2000 S 179, § 3, eff. 1-1-02)

#### Notes of Decisions (127)

R.C. § 2152.19, OH ST § 2152.19

Current through File 75, 77 to 81, 83 and 84 of the 132nd General Assembly (2017-2018), 2017 State Issue 1, and 2018 State Issue 1.

Baldwin's Ohio Revised Code Annotated

Title XXI, Courts--Probate--Juvenile (Refs & Annos)

Chapter 2152, Juvenile Courts--Criminal Provisions (Refs & Annos)

Dispositional Orders

R.C. § 2152.22

2152.22 Relinquishment of juvenile court control; judicial release

Effective: September 10, 2012

Currentness

(A) When a child is committed to the legal custody of the department of youth services under this chapter, the juvenile court relinquishes control with respect to the child so committed, except as provided in divisions (B), (C), (D), and (F) of this section or in sections 2152.82 to 2152.86 of the Revised Code. Subject to divisions (B), (C), and (D) of this section, sections 2151.353 and 2151.412 to 2151.421 of the Revised Code, sections 2152.82 to 2152.86 of the Revised Code, and any other provision of law that specifies a different duration for a dispositional order, all other dispositional orders made by the court under this chapter shall be temporary and shall continue for a period that is designated by the court in its order, until terminated or modified by the court or until the child attains twenty-one years of age.

The department shall not release the child from a department facility and as a result shall not discharge the child or order the child's release on supervised release prior to the expiration of the minimum period specified by the court in division (A)(1) of section 2152.16 of the Revised Code and any term of commitment imposed under section 2152.17 of the Revised Code or prior to the child's attainment of twenty-one years of age, except upon the order of a court pursuant to division (B), (C), or (D) of this section or in accordance with section 5139.54 of the Revised Code.

(B)(1) Unless the court grants judicial release under division (D)(1)(b) of this section, the court that commits a delinquent child to the department of youth services may grant judicial release of the child to court supervision under this division during the first half of the prescribed minimum term for which the child was committed to the department or, if the child was committed to the department until the child attains twenty-one years of age, during the first half of the prescribed period of commitment that begins on the first day of commitment and ends on the child's twenty-first birthday, provided any commitment imposed under division (A), (B), (C), or (D) of section 2152.17 of the Revised Code has ended.

(2) If the department desires to release a child during a period specified in division (B)(1) of this section, it shall request the court that committed the child to grant a judicial release of the child to court supervision under this division. During whichever of those periods is applicable, the child or the parents of the child also may request that court to grant a judicial release of the child to court supervision. Upon receipt of a request for a judicial release to court supervision under this division from the department, the child, or the child's parent, or upon its own motion, the court that committed the child shall do one of the following: approve the release by journal entry; schedule within thirty days after the request is received a time for a hearing on whether the child is to be released; or reject the request by journal entry without conducting a hearing.

If the court rejects an initial request for a release under this division by the child or the child's parent, the child or the child's parent may make one additional request for a judicial release to court supervision within the applicable period. The additional request may be made no earlier than thirty days after the filing of the prior request for a judicial release to court supervision. Upon the filing of a second request for a judicial release to court supervision, the court shall either

approve or disapprove the release by journal entry or schedule within thirty days after the request is received a time for a hearing on whether the child is to be released.

(3) If a court schedules a hearing under division (B)(2) of this section, it may order the department to deliver the child to the court on the date set for the hearing and may order the department to present to the court a report on the child's progress in the institution to which the child was committed and recommendations for conditions of supervision of the child by the court after release. The court may conduct the hearing without the child being present. The court shall determine at the hearing whether the child should be granted a judicial release to court supervision.

If the court approves the release under this division, it shall order its staff to prepare a written treatment and rehabilitation plan for the child that may include any conditions of the child's release that were recommended by the department and approved by the court. The committing court shall send the juvenile court of the county in which the child is placed a copy of the recommended plan. The court of the county in which the child is placed may adopt the recommended conditions set by the committing court as an order of the court and may add any additional consistent conditions it considers appropriate. If a child is granted a judicial release to court supervision, the release discharges the child from the custody of the department of youth services.

(C)(1) Unless the court grants judicial release under division (D)(1)(b) of this section, the court that commits a delinquent child to the department of youth services may grant judicial release of the child to department of youth services supervision under this division during the second half of the prescribed minimum term for which the child was committed to the department or, if the child was committed to the department until the child attains twenty-one years of age, during the second half of the prescribed period of commitment that begins on the first day of commitment and ends on the child's twenty-first birthday, provided any commitment imposed under division (A), (B), (C), or (D) of section 2152.17 of the Revised Code has ended.

(2) If the department desires to release a child during a period specified in division (C)(1) of this section, it shall request the court that committed the child to grant a judicial release to department of youth services supervision. During whichever of those periods is applicable, the child or the child's parent also may request the court that committed the child to grant a judicial release to department of youth services supervision. Upon receipt of a request for judicial release to department of youth services supervision, the child, or the child's parent, or upon its own motion at any time during that period, the court shall do one of the following: approve the release by journal entry; schedule a time within thirty days after receipt of the request for a hearing on whether the child is to be released; or reject the request by journal entry without conducting a hearing.

If the court rejects an initial request for release under this division by the child or the child's parent, the child or the child's parent may make one or more subsequent requests for a release within the applicable period, but may make no more than one request during each period of ninety days that the child is in a secure department facility after the filing of a prior request for early release. Upon the filing of a request for release under this division subsequent to an initial request, the court shall either approve or disapprove the release by journal entry or schedule a time within thirty days after receipt of the request for a hearing on whether the child is to be released.

(3) If a court schedules a hearing under division (C)(2) of this section, it may order the department to deliver the child to the court on the date set for the hearing and shall order the department to present to the court at that time a treatment plan for the child's post-institutional care. The court may conduct the hearing without the child being present. The court shall determine at the hearing whether the child should be granted a judicial release to department of youth services supervision.

If the court approves the judicial release to department of youth services supervision, the department shall prepare a written treatment and rehabilitation plan for the child pursuant to division (F) of this section that shall include the conditions of the child's release. It shall send the committing court and the juvenile court of the county in which the child is placed a copy of the plan. The court of the county in which the child is placed may adopt the conditions set by the department as an order of the court and may add any additional consistent conditions it considers appropriate, provided that the court may not add any condition that decreases the level or degree of supervision specified by the department in its plan, that substantially increases the financial burden of supervision that will be experienced by the department, or that alters the placement specified by the department in its plan. If the court of the county in which the child is placed adds to the department's plan any additional conditions, it shall enter those additional conditions in its journal and shall send to the department a copy of the journal entry of the additional conditions.

If the court approves the judicial release to department of youth services supervision, the actual date on which the department shall release the child is contingent upon the department finding a suitable placement for the child. If the child is to be returned to the child's home, the department shall return the child on the date that the court schedules for the child's release or shall bear the expense of any additional time that the child remains in a department facility. If the child is unable to return to the child's home, the department shall exercise reasonable diligence in finding a suitable placement for the child, and the child shall remain in a department facility while the department finds the suitable placement.

(D)(1) Subject to division (D)(3) of this section, the court that commits a delinquent child to the department of youth services may grant judicial release of the child under this division at any time after the expiration of one of the following periods of time:

(a) Except as otherwise provided in division (D)(1)(b) of this section, if the child was committed to the department for a prescribed minimum period and a maximum period not to exceed the child's attainment of twenty-one years, the court may grant judicial release of the child at any time after the expiration of the prescribed minimum term for which the child was committed to the department.

(b) If the child was committed to the department for both one or more definite periods under division (A), (B), (C), or (D) of section 2152.17 of the Revised Code and a period of the type described in division (D)(1)(a) of this section, all of the prescribed minimum periods of commitment imposed under division (A), (B), (C), or (D) of section 2152.17 of the Revised Code and the prescribed period of commitment of the type described in division (D)(1)(a) of this section shall be aggregated for purposes of this division, and the court may grant judicial release of the child at any time after the expiration of one year after the child begins serving the aggregate period of commitment.

(2) If a court grants a judicial release of a child under division (D)(1) of this section, the release shall be a judicial release to department of youth services supervision, if the release is granted during a period described in division (C)(1) of this section, and the second and third paragraphs of division (C)(3) of this section apply regarding the release. In all other cases, the release shall be a judicial release to court supervision, and the second paragraph of division (B)(3) of this section applies regarding the release.

(3) A court at the time of making the disposition of a child shall provide notice in the order of disposition that the judge is retaining jurisdiction over the child for the purpose of a possible grant of judicial release of the child under division (D)(1) of this section. The failure of a court to provide this notice does not affect the authority of the court to grant a judicial release under that division and does not constitute grounds for setting aside the child's delinquent child adjudication or disposition or for granting any post-adjudication relief to the child.

(4) The department of youth services, a child committed to the department, or the parents of the child, during a period specified in division (D)(1) of this section, may request the court that committed the child to grant a judicial release of the child under that division. Upon receipt of a request for judicial release of a child under this division from the department, the child, or the child's parent, or upon its own motion, the court that committed the child shall do one of the following:

(a) Approve the request by journal entry;

(b) Schedule within thirty days after the request is received a time for a hearing on whether the child is to be released;

(c) Reject the request by journal entry without conducting a hearing.

If the court rejects an initial request for a release under this division by the child or the child's parent, division (C)(2) of this section applies regarding the making of additional requests.

If the court schedules a hearing under this division to consider the judicial release, the first paragraph of division (B)(3) of this section applies regarding the hearing.

(E) If a child is released under division (B), (C), or (D) of this section and the court of the county in which the child is placed has reason to believe that the child's deportment is not in accordance with the conditions of the child's judicial release, the court of the county in which the child is placed shall schedule a time for a hearing to determine whether the child violated any of the post-release conditions, and, if the child was released under division (C) of this section or under division (D) of this section under department supervision, divisions (A) to (E) of section 5139.52 of the Revised Code apply regarding the child.

If that court determines at the hearing that the child violated any of the post-release conditions, the court, if it determines that the violation was a serious violation, may order the child to be returned to the department for institutionalization, consistent with the original order of commitment of the child, or in any case may make any other disposition of the child authorized by law that the court considers proper. If the court of the county in which the child is placed orders the child to be returned to a department of youth services institution, the time during which the child was held in a secure department facility prior to the child's judicial release shall be considered as time served in fulfilling the prescribed period of institutionalization that is applicable to the child under the child's original order of commitment. If the court orders the child returned to a department institution, the child shall remain in institutional care for a minimum of three months or until the child successfully completes a revocation program of a duration of not less than thirty days operated either by the department or by an entity with which the department has contracted to provide a revocation program.

(F) The department of youth services, prior to the release of a child pursuant to division (C) of this section or pursuant to division (D) of this section on department supervision, shall do all of the following:

(1) After reviewing the child's rehabilitative progress history and medical and educational records, prepare a written treatment and rehabilitation plan for the child that includes conditions of the release;

(2) Completely discuss the conditions of the plan prepared pursuant to division (F)(1) of this section and the possible penalties for violation of the plan with the child and the child's parents, guardian, or legal custodian;

(3) Have the plan prepared pursuant to division (F)(1) of this section signed by the child, the child's parents, legal guardian, or custodian, and any authority or person that is to supervise, control, and provide supportive assistance to the child at the time of the child's release pursuant to division (C) or (D) of this section;

(4) Prior to the child's release, file a copy of the treatment plan prepared pursuant to division (F)(1) of this section with the committing court and the juvenile court of the county in which the child is to be placed.

(G) The department of youth services shall file a written progress report with the committing court regarding each child released pursuant to division (C) of this section or released pursuant to division (D) of this section on judicial release to department supervision at least once every thirty days unless specifically directed otherwise by the court. The report shall indicate the treatment and rehabilitative progress of the child and the child's family, if applicable, and shall include any suggestions for altering the program, custody, living arrangements, or treatment. The department shall retain legal custody of a child so released until it discharges the child or until the custody is terminated as otherwise provided by law.

(H) When a child is committed to the legal custody of the department of youth services, the court retains jurisdiction to perform the functions specified in section 5139.51 of the Revised Code with respect to the granting of supervised release by the release authority and to perform the functions specified in section 5139.52 of the Revised Code with respect to violations of the conditions of supervised release granted by the release authority and to the revocation of supervised release granted by the release authority.

#### CREDIT(S)

(2012 H 487, eff. 9-10-12; 2011 H 86, eff. 9-30-11; 2007 S 10, eff. 1-1-08; 2002 H 393, eff. 7-5-02; 2001 S 3, eff. 1-1-02; 2000 S 179, § 3, eff. 1-1-02)

#### Notes of Decisions (7)

R.C. § 2152.22, OH ST § 2152.22

Current through File 75, 77 to 81, 83 and 84 of the 132nd General Assembly (2017-2018), 2017 State Issue 1, and 2018 State Issue 1.

Baldwin's Ohio Revised Code Annotated  
Title XXI. Courts--Probate--Juvenile (Refs & Annos)  
Chapter 2152. Juvenile Courts--Criminal Provisions (Refs & Annos)  
Juvenile Offender Registrants

R.C. § 2152.82

2152.82 Juvenile offender registrant

Effective: January 1, 2008  
Currentness

(A) The court that adjudicates a child a delinquent child shall issue as part of the dispositional order an order that classifies the child a juvenile offender registrant and specifies that the child has a duty to comply with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code if all of the following apply:

(1) The act for which the child is adjudicated a delinquent child is a sexually oriented offense or a child-victim oriented offense that the child committed on or after January 1, 2002.

(2) The child was fourteen, fifteen, sixteen, or seventeen years of age at the time of committing the offense.

(3) The court has determined that the child previously was adjudicated a delinquent child 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.

(4) The court is not required to classify the child as both a juvenile offender registrant and a public registry-qualified juvenile offender registrant under section 2152.86 of the Revised Code.

(B) An order required under division (A) of this section shall be issued at the time the judge makes the order of disposition for the delinquent child. Prior to issuing the order required by division (A) of this section, the judge shall conduct a hearing under section 2152.831 of the Revised Code to determine whether the child is a tier I sex offender/child-victim offender, a tier II sex offender/child-victim offender, or a tier III sex offender/child-victim offender. If the court determines that the delinquent child to whom the order applies is a tier III sex offender/child-victim offender and the child is not a public registry-qualified juvenile offender registrant, the judge may impose a requirement subjecting the child to the victim and community notification provisions of sections 2950.10 and 2950.11 of the Revised Code. When a judge issues an order under division (A) of this section, all of the following apply:

(1) The judge shall include in the order a statement that, upon completion of the disposition of the delinquent child that was made for the sexually oriented offense or child-victim oriented offense upon which the order is based, a hearing will be conducted, and the order and any determinations included in the order are subject to modification or termination pursuant to sections 2152.84 and 2152.85 of the Revised Code.



(2) The judge shall provide to the delinquent child and to the delinquent child's parent, guardian, or custodian the notice required under divisions (A) and (B) of section 2950.03 of the Revised Code and shall provide as part of that notice a copy of the order.

(3) The judge shall include the order in the delinquent child's dispositional order and shall specify in the dispositional order that the order issued under division (A) of this section was made pursuant to this section.

(4) If the court determines that the delinquent child to whom the order applies is a tier III sex offender/child-victim offender, if the child is not a public registry-qualified juvenile offender registrant, and if the judge imposes a requirement subjecting the child to the victim and community notification provisions of sections 2950.10 and 2950.11 of the Revised Code, the judge shall include the requirement in the order.

(5) The court shall include in the order its determination made at the hearing held under section 2151.831 of the Revised Code as to whether the delinquent child is a tier I sex offender/child-victim offender, a tier II sex offender/child-victim offender, or a tier III sex offender/child-victim offender.

(C) Except as provided in division (D) of this section, an order issued under division (A) of this section and any determinations included in the order shall remain in effect for the period of time specified in section 2950.07 of the Revised Code, subject to a modification or termination of the order under section 2152.84 or 2152.85 of the Revised Code, and section 2152.851 of the Revised Code applies regarding the order and the determinations. If an order is issued under division (A) of this section, the child's attainment of eighteen or twenty-one years of age does not affect or terminate the order, and the order remains in effect for the period of time described in this division.

(D) If a court issues an order under division (A) of this section before January 1, 2008, not later than February 1, 2008, the court shall terminate the order and issue a new order that reclassifies the child as both a juvenile offender registrant and a public registry-qualified juvenile offender registrant pursuant to section 2152.86 of the Revised Code if the court imposed on the child a serious youthful offender dispositional sentence under section 2152.13 of the Revised Code and if the act that was the basis of the classification of the delinquent child as a juvenile offender registrant and is the basis of the serious youthful offender dispositional sentence is any of the following:

(1) Committing, attempting to commit, conspiring to commit, or complicity in committing a violation of section 2907.02 of the Revised Code, division (B) of section 2907.05 of the Revised Code, or section 2907.03 of the Revised Code if the victim of the violation was less than twelve years of age;

(2) Committing, attempting to commit, conspiring to commit, or complicity in committing a violation of section 2903.01, 2903.02, or 2905.01 of the Revised Code that was committed with a purpose to gratify the sexual needs or desires of the child.

CREDIT(S)

(2007 S 10, eff. 1-1-08; 2003 S 5, eff. 7-31-03; 2002 H 393, eff. 7-5-02; 2001 S 3, eff. 1-1-02)

2152.82 Juvenile offender registrant, OH ST § 2152.82

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Notes of Decisions (5)

R.C. § 2152.82, OH ST § 2152.82

Current through File 75, 77 to 81, 83 and 84 of the 132nd General Assembly (2017-2018), 2017 State Issue 1, and 2018 State Issue 1.

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Baldwin's Ohio Revised Code Annotated  
Title XXI. Courts--Probate--Juvenile (Refs & Annos)  
Chapter 2152. Juvenile Courts--Criminal Provisions (Refs & Annos)  
Juvenile Offender Registrants

R.C. § 2152.83

2152.83 Order classifying child as juvenile offender registrant;  
hearing to review effectiveness of disposition and treatment

Effective: January 1, 2008  
Currentness

(A)(1) The court that adjudicates a child a delinquent child shall issue as part of the dispositional order or, if the court commits the child for the delinquent act to the custody of a secure facility, shall issue at the time of the child's release from the secure facility an order that classifies the child a juvenile offender registrant and specifies that the child has a duty to comply with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code if all of the following apply:

(a) The act for which the child is or was adjudicated a delinquent child is a sexually oriented offense or a child-victim oriented offense that the child committed on or after January 1, 2002.

(b) The child was sixteen or seventeen years of age at the time of committing the offense.

(c) The court was not required to classify the child a juvenile offender registrant under section 2152.82 of the Revised Code or as both a juvenile offender registrant and a public registry-qualified juvenile offender registrant under section 2152.86 of the Revised Code.

(2) Prior to issuing the order required by division (A)(2) of this section, the judge shall conduct a hearing under section 2152.831 of the Revised Code, except as otherwise provided in that section, to determine whether the child is a tier I sex offender/child-victim offender, a tier II sex offender/child-victim offender, or a tier III sex offender/child-victim offender. When a judge issues an order under division (A)(1) of this section, the judge shall include in the order the determinations identified in division (B) (5) of section 2152.82 of the Revised Code.

(B)(1) The court that adjudicates a child a delinquent child, on the judge's own motion, may conduct at the time of disposition of the child or, if the court commits the child for the delinquent act to the custody of a secure facility, may conduct at the time of the child's release from the secure facility a hearing for the purposes described in division (B)(2) of this section if all of the following apply:

(a) The act for which the child is adjudicated a delinquent child is a sexually oriented offense or a child-victim oriented offense that the child committed on or after January 1, 2002.

(b) The child was fourteen or fifteen years of age at the time of committing the offense.

(c) The court was not required to classify the child a juvenile offender registrant under section 2152.82 of the Revised Code or as both a juvenile offender registrant and a public registry-qualified juvenile offender registrant under section 2152.86 of the Revised Code.

(2) A judge shall conduct a hearing under division (B)(1) of this section to review the effectiveness of the disposition made of the child and of any treatment provided for the child placed in a secure setting and to determine whether the child should be classified a juvenile offender registrant. The judge may conduct the hearing on the judge's own initiative or based upon a recommendation of an officer or employee of the department of youth services, a probation officer, an employee of the court, or a prosecutor or law enforcement officer. If the judge conducts the hearing, upon completion of the hearing, the judge, in the judge's discretion and after consideration of the factors listed in division (B) of this section, shall do either of the following:

(a) Decline to issue an order that classifies the child a juvenile offender registrant and specifies that the child has a duty to comply with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code;

(b) Issue an order that classifies the child a juvenile offender registrant and specifies that the child has a duty to comply with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code and that states the determination that the judge makes at the hearing held pursuant to section 2152.831 of the Revised Code as to whether the child is a tier I sex offender/child-victim offender, a tier II sex offender/child-victim offender, or a tier III sex offender/child-victim offender.

(C)(1) Prior to issuing an order under division (B)(2)(b) of this section, the judge shall conduct a hearing under section 2152.831 of the Revised Code to determine whether the child is a tier I sex offender/child-victim offender, a tier II sex offender/child-victim offender, or a tier III sex offender/child-victim offender. The judge may hold the hearing at the same time as the hearing under division (B) of this section.

(2) If a judge issues an order under division (A) or (B) of this section and the court determines that the delinquent child to whom the order applies is a tier III sex offender/child-victim offender and the child is not a public registry-qualified juvenile offender registrant, the judge may impose a requirement subjecting the child to the victim and community notification provisions of sections 2950.10 and 2950.11 of the Revised Code. If the judge imposes a requirement subjecting the child to the victim and community notification provisions of sections 2950.10 and 2950.11 of the Revised Code, the judge shall include the requirement in the order.

(3) If a judge issues an order under division (A) or (B) of this section, the judge shall provide to the delinquent child and to the delinquent child's parent, guardian, or custodian a copy of the order and a notice containing the information described in divisions (A) and (B) of section 2950.03 of the Revised Code. The judge shall provide the notice at the time of the issuance of the order and shall comply with divisions (B) and (C) of that section regarding that notice and the provision of it.

The judge also shall include in the order a statement that, upon completion of the disposition of the delinquent child that was made for the sexually oriented offense or child-victim oriented offense upon which the order is based, a hearing will be conducted and the order is subject to modification or termination pursuant to section 2152.84 of the Revised Code.

(D) In making a decision under division (B) of this section as to whether a delinquent child should be classified a juvenile offender registrant, a judge shall consider all relevant factors, including, but not limited to, all of the following:

- (1) The nature of the sexually oriented offense or the child-victim oriented offense committed by the child;
- (2) Whether the child has shown any genuine remorse or compunction for the offense;
- (3) The public interest and safety;
- (4) The factors set forth in division (K) of section 2950.11 of the Revised Code, provided that references in the factors as set forth in that division to "the offender" shall be construed for purposes of this division to be references to "the delinquent child;"
- (5) The factors set forth in divisions (B) and (C) of section 2929.12 of the Revised Code as those factors apply regarding the delinquent child, the offense, and the victim;
- (6) The results of any treatment provided to the child and of any follow-up professional assessment of the child.

(B) An order issued under division (A) or (B) of this section and any determinations included in the order shall remain in effect for the period of time specified in section 2950.07 of the Revised Code, subject to a modification or termination of the order under section 2152.84 of the Revised Code, and section 2152.851 of the Revised Code applies regarding the order and the determinations. The child's attainment of eighteen or twenty-one years of age does not affect or terminate the order, and the order remains in effect for the period of time described in this division.

(F) If a court issues an order under division (A) or (B) of this section before January 1, 2008, not later than February 1, 2008, the court shall terminate the order and issue a new order that reclassifies the child as both a juvenile offender registrant and a public registry-qualified juvenile offender registrant pursuant to section 2152.86 of the Revised Code if the court imposed on the child a serious youthful offender dispositional sentence under section 2152.13 of the Revised Code and if the act that was the basis of the classification of the delinquent child as a juvenile offender registrant and is the basis of the serious youthful offender dispositional sentence is any of the following:

(1) Committing, attempting to commit, conspiring to commit, or complicity in committing a violation of section 2907.02 of the Revised Code, division (B) of section 2907.05 of the Revised Code, or section 2907.03 of the Revised Code if the victim of the violation was less than twelve years of age;

(2) Committing, attempting to commit, conspiring to commit, or complicity in committing a violation of section 2903.01, 2903.02, or 2905.01 of the Revised Code that was committed with a purpose to gratify the sexual needs or desires of the child.

(G) As used in this section, "secure facility" has the same meaning as in section 2950.01 of the Revised Code.

2152.83 Order classifying child as juvenile offender registrant;..., OH ST § 2152.83.

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CREDIT(S)

(2007 S 10, eff. 1-1-08; 2003 S 5, eff. 7-31-03; 2002 H 393, eff. 7-5-02; 2001 S 3, eff. 1-1-02)

Notes of Decisions (39)

R.C. § 2152.83, OH ST § 2152.83

Current through File 75, 77 to 81, 83 and 84 of the 132nd General Assembly (2017-2018), 2017 State Issue 1, and 2018 State Issue 1,

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Baldwin's Ohio Revised Code Annotated

Title XXI, Courts--Probate--Juvenile (Refs & Annos)

Chapter 2152, Juvenile Courts--Criminal Provisions (Refs & Annos)

Juvenile Offender Registrants

R.C. § 2152.84

2152.84 Hearings; orders

Effective: January 1, 2008

Currentness

(A)(1) When a juvenile court judge issues an order under section 2152.82 or division (A) or (B) of section 2152.83 of the Revised Code that classifies a delinquent child a juvenile offender registrant and specifies that the child has a duty to comply with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code, upon completion of the disposition of that child made for the sexually oriented offense or the child-victim oriented offense on which the juvenile offender registrant order was based, the judge or the judge's successor in office shall conduct a hearing to review the effectiveness of the disposition and of any treatment provided for the child, to determine the risks that the child might re-offend, to determine whether the prior classification of the child as a juvenile offender registrant should be continued or terminated as provided under division (A)(2) of this section, and to determine whether its prior determination made at the hearing held pursuant to section 2152.831 of the Revised Code as to whether the child is a tier I sex offender/child-victim offender, a tier II sex offender/child-victim offender, or a tier III sex offender/child-victim offender should be continued or modified as provided under division (A)(2) of this section.

(2) Upon completion of a hearing under division (A)(1) of this section, the judge, in the judge's discretion and after consideration of all relevant factors, including but not limited to, the factors listed in division (D) of section 2152.83 of the Revised Code, shall do one of the following as applicable:

(a) Enter an order that continues the classification of the delinquent child as a juvenile offender registrant made in the prior order issued under section 2152.82 or division (A) or (B) of section 2152.83 of the Revised Code and the prior determination included in the order that the child is a tier I sex offender/child-victim offender, a tier II sex offender/child-victim offender, or a tier III sex offender/child-victim offender, whichever is applicable;

(b) If the prior order was issued under division (B) of section 2152.83 of the Revised Code, enter an order that contains a determination that the delinquent child no longer is a juvenile offender registrant and no longer has a duty to comply with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code. An order issued under division (A)(2)(b) of this section also terminates all prior determinations that the child is a tier I sex offender/child-victim offender, a tier II sex offender/child-victim offender, or a tier III sex offender/child-victim offender, whichever is applicable. Division (A)(2)(b) of this section does not apply to a prior order issued under section 2152.82 or division (A) of section 2152.83 of the Revised Code.

(c) If the prior order was issued under section 2152.82 or division (A) or (B) of section 2152.83 of the Revised Code, enter an order that continues the classification of the delinquent child as a juvenile offender registrant made in the prior order issued under section 2152.82 or division (A) or (B) of section 2152.83 of the Revised Code, and that modifies the prior determination made at the hearing held pursuant to section 2152.831 of the Revised Code that the child is a tier I sex

offender/child-victim offender, a tier II sex offender/child-victim offender, or a tier III sex offender/child-victim offender, whichever is applicable. An order issued under division (A)(2)(c) of this section shall not include a determination that increases to a higher tier the tier classification of the delinquent child. An order issued under division (A)(2)(c) of this section shall specify the new determination made by the court at a hearing held pursuant to division (A)(1) of this section as to whether the child is a tier I sex offender/child-victim offender, a tier II sex offender/child-victim offender, or a tier III sex offender/child-victim offender, whichever is applicable.

(B)(1) If a judge issues an order under division (A)(2)(a) of this section that continues the prior classification of the delinquent child as a juvenile offender registrant and the prior determination included in the order that the child is a tier I sex offender/child-victim offender, a tier II sex offender/child-victim offender, or a tier III sex offender/child-victim offender, whichever is applicable, the prior classification and the prior determination shall remain in effect.

(2) A judge may issue an order under division (A)(2)(c) of this section that contains a determination that reclassifies a child from a tier III sex offender/child-victim offender classification to a tier II sex offender/child-victim offender classification or to a tier I sex offender/child-victim offender classification.

A judge may issue an order under division (A)(2)(c) of this section that contains a determination that reclassifies a child from a tier II sex offender/child-victim offender classification. A judge may not issue an order under that division that contains a determination that reclassifies a child from a tier II sex offender/child-victim offender classification to a tier III sex offender/child-victim offender classification.

A judge may not issue an order under division (A)(2)(c) of this section that contains a determination that reclassifies a child from a tier I sex offender/child-victim offender classification to a tier II sex offender/child-victim offender classification or to a tier III sex offender/child-victim offender classification.

If a judge issues an order under this division that contains a determination that reclassifies a child, the judge shall provide a copy of the order to the delinquent child and the bureau of criminal identification and investigation, and the bureau, upon receipt of the copy of the order, promptly shall notify the sheriff with whom the child most recently registered under section 2950.04 or 2950.041 of the Revised Code of the determination and reclassification.

(3) If a judge issues an order under division (A)(2)(b) of this section that declassifies the delinquent child as a juvenile offender registrant, the judge shall provide a copy of the order to the bureau of criminal identification and investigation, and the bureau, upon receipt of the copy of the order, promptly shall notify the sheriff with whom the child most recently registered under section 2950.04 or 2950.041 of the Revised Code of the declassification.

(C) If a judge issues an order under division (A)(2)(a), (b), or (c) of this section, the judge shall provide to the delinquent child and to the delinquent child's parent, guardian, or custodian a copy of the order and, if applicable, a notice containing the information described in divisions (A) and (B) of section 2950.03 of the Revised Code. The judge shall provide the notice at the time of the issuance of the order and shall comply with divisions (B) and (C) of that section regarding that notice and the provision of it.

(D) An order issued under division (A)(2)(a) or (c) of this section and any determinations included in the order shall remain in effect for the period of time specified in section 2950.07 of the Revised Code, subject to a modification or termination of the order under section 2152.85 of the Revised Code, and section 2152.851 of the Revised Code applies regarding the order and the determinations. If an order is issued under division (A)(2)(a) or (c) of this section, the child's



attainment of eighteen or twenty-one years of age does not affect or terminate the order, and the order remains in effect for the period of time described in this division.

(E) The provisions of this section do not apply to a delinquent child who is classified as both a juvenile offender registrant and a public registry-qualified juvenile offender registrant pursuant to section 2152.86 of the Revised Code.

CREDIT(S)

(2007 S 10, eff. 1-1-08; 2003 S 5, eff. 7-31-03; 2002 H 393, eff. 7-5-02; 2001 S 3, eff. 1-1-02)

Notes of Decisions (4)

R.C. § 2152.84, OH ST § 2152.84

Current through File 75, 77 to 81, 83 and 84 of the 132nd General Assembly (2017-2018), 2017 State Issue 1, and 2018 State Issue 1.

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Baldwin's Ohio Revised Code Annotated

Title XXI. Courts--Probate--Juvenile (Refs & Annos)

Chapter 2152. Juvenile Courts--Criminal Provisions (Refs & Annos)

Juvenile Offender Registrants

R.C. § 2152.85

2152.85 Petitioning of judge by juvenile offender registrant

Effective: January 1, 2008

Currentness

(A) Regardless of when the delinquent child was classified a juvenile offender registrant, upon the expiration of the applicable period of time specified in division (B)(1), (2), or (3) of this section, a delinquent child who has been classified pursuant to this section or section 2152.82 or 2152.83 of the Revised Code a juvenile offender registrant may petition the judge who made the classification, or that judge's successor in office, to do one of the following:

(1) If the order containing the juvenile offender registrant classification also includes a determination by the juvenile court judge that the delinquent child is a tier III sex offender/child-victim offender, to enter, as applicable, an order that contains a determination that reclassifies the child as either a tier II sex offender/child-victim offender or a tier I sex offender/child-victim offender, the reason or reasons for that reclassification, and a determination that the child remains a juvenile offender registrant, or an order that contains a determination that the child no longer is a juvenile offender registrant and no longer has a duty to comply with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code;

(2) If the order containing the juvenile offender registrant classification also includes a determination by the juvenile court judge that the delinquent child is a tier II sex offender/child-victim offender, to enter, as applicable, an order that contains a determination that reclassifies the child as a tier I sex offender/child-victim offender, the reason or reasons for that reclassification, and a determination that the child remains a juvenile offender registrant, or an order that contains a determination that the child no longer is a juvenile offender registrant and no longer has a duty to comply with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code;

(3) If the order containing the juvenile offender registrant classification also includes a determination by the juvenile court judge that the delinquent child is a tier I sex offender/child-victim offender, to enter an order that contains a determination that the child no longer is a juvenile offender registrant and no longer has a duty to comply with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code.

(B) A delinquent child who has been adjudicated a delinquent child for committing on or after January 1, 2002, a sexually oriented offense or a child-victim oriented offense and who has been classified a juvenile offender registrant relative to that offense may file a petition under division (A) of this section requesting reclassification or declassification as described in that division after the expiration of one of the following periods of time:

(1) The delinquent child initially may file a petition not earlier than three years after the entry of the juvenile court judge's order after the mandatory hearing conducted under section 2152.84 of the Revised Code.

(2) After the delinquent child's initial filing of a petition under division (B)(1) of this section, the child may file a second petition not earlier than three years after the judge has entered an order deciding the petition under division (B)(1) of this section.

(3) After the delinquent child's filing of a petition under division (B)(2) of this section, thereafter, the delinquent child may file a petition under this division upon the expiration of five years after the judge has entered an order deciding the petition under division (B)(2) of this section or the most recent petition the delinquent child has filed under this division.

(C) Upon the filing of a petition under division (A) of this section, the judge may review the prior classification or determination in question and, upon consideration of all relevant factors and information, including, but not limited to the factors listed in division (D) of section 2152.83 of the Revised Code, the judge, in the judge's discretion, shall do one of the following:

(1) Enter an order denying the petition;

(2) Issue an order that reclassifies or declassifies the delinquent child in the requested manner.

(D) If a judge issues an order under division (C)(1) of this section that denies a petition, the prior classification of the delinquent child as a juvenile offender registrant, and the prior determination that the child is a tier I sex offender/child-victim offender, a tier II sex offender/child-victim offender, or a tier III sex offender/child-victim offender, whichever is applicable, shall remain in effect.

A judge may issue an order under division (C)(2) of this section that contains a determination that reclassifies a child from a tier III sex offender/child-victim offender classification to a tier II sex offender/child-victim offender classification or to a tier I sex offender/child-victim offender classification.

A judge may issue an order under division (C)(2) of this section that contains a determination that reclassifies a child from a tier II sex offender/child-victim offender classification to a tier I sex offender/child-victim offender classification.

If a judge issues an order under this division that contains a determination that reclassifies a child, the judge shall provide a copy of the order to the delinquent child and the bureau of criminal identification and investigation, and the bureau, upon receipt of the copy of the order, promptly shall notify the sheriff with whom the child most recently registered under section 2950.04 or 2950.041 of the Revised Code of the determination and reclassification.

If a judge issues an order under division (C)(2) of this section that declassifies the delinquent child, the order also terminates all prior determinations that the child is a tier I sex offender/child-victim offender, a tier II sex offender/child-victim offender, or a tier III sex offender/child-victim offender, whichever is applicable. If a judge issues an order under division (C)(2) of this section that declassifies the delinquent child, the judge shall provide a copy of the order to the bureau of criminal identification and investigation, and the bureau, upon receipt of a copy of the order, promptly shall notify the sheriff with whom the child most recently registered under section 2950.04 or 2950.041 of the Revised Code of the declassification.

(E) If a judge issues an order under division (C)(1) or (2) of this section, the judge shall provide to the delinquent child and to the delinquent child's parent, guardian, or custodian a copy of the order and, if applicable, a notice containing

2152.85 Petitioning of judge by juvenile offender registrant, OH ST § 2152.85

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the information described in divisions (A) and (B) of section 2950.03 of the Revised Code. The judge shall provide the notice at the time of the issuance of the order and shall comply with divisions (B) and (C) of that section regarding that notice and the provision of it.

(F) An order issued under division (C) of this section shall remain in effect for the period of time specified in section 2950.07 of the Revised Code, subject to a further modification or future termination of the order under this section. If an order is issued under division (C) of this section, the child's attainment of eighteen or twenty-one years of age does not affect or terminate the order, and the order remains in effect for the period of time described in this division.

(G) The provisions of this section do not apply to a delinquent child who is classified as both a juvenile offender registrant and a public registry-qualified juvenile offender registrant pursuant to section 2152.86 of the Revised Code.

CREDIT(S)

(2007 S 10, eff. 1-1-08; 2003 S 5, eff. 7-31-03; 2001 S 3, eff. 1-1-02)

R.C. § 2152.85, OH ST § 2152.85

Current through File 75, 77 to 81, 83 and 84 of the 132nd General Assembly (2017-2018), 2017 State Issue 1, and 2018 State Issue 1.

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Baldwin's Ohio Revised Code Annotated

Title XXI. Courts--Probate--Juvenile (Refs & Annos)

Chapter 2152. Juvenile Courts--Criminal Provisions (Refs & Annos)

Juvenile Offender Registrants

R.C. § 2152.851

2152.851 Effect of redesignation of offense on existing order

Effective: January 1, 2008

Currentness

If, prior to January 1, 2008, a judge issues an order under section 2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code that classifies a delinquent child a juvenile offender registrant based on an adjudication for a sexually oriented offense or a child-victim oriented offense as those terms were defined in section 2950.01 of the Revised Code prior to January 1, 2008, and if, on and after January 1, 2008, the offense upon which the order was based is a sexually oriented offense or a child-victim oriented offense as those terms are defined in section 2950.01 of the Revised Code on and after January 1, 2008, notwithstanding the changes to sections 2152.82, 2152.83, 2152.84, and 2152.85 of the Revised Code made on January 1, 2008, on and after that date, the order shall remain in effect for the period described in the section under which it was issued as that section exists on and after January 1, 2008, subject to subsequent modification or termination under section 2152.84, 2152.85, or 2950.15 of the Revised Code, or, if division (A)(3) of section 2152.86 of the Revised Code applies regarding the child, for the period described in division (C) of that section subject to modification or termination under section 2152.84, 2152.85, or 2950.15 of the Revised Code, whichever is applicable, and the duty to comply with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code on and after January 1, 2008, shall be considered, for purposes of section 2950.07 of the Revised Code and for all other purposes, to be a continuation of the duty imposed upon the child prior to January 1, 2008, under the order issued under section 2152.82, 2152.83, 2152.84, or 2152.85 and Chapter 2950. of the Revised Code.

CREDIT(S)

(2007 S 10, eff. 1-1-08; 2003 S 5, eff. 7-31-03)


R.C. § 2152.851, OH ST § 2152.851

Current through File 75, 77 to 81, 83 and 84 of the 132nd General Assembly (2017-2018), 2017 State Issue 1, and 2018 State Issue 1.

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 KeyCite Red Flag - Severe Negative Treatment

Unconstitutional or Preempted Recognized as Unconstitutional by In re D.P., Ohio App. 5 Dist., May 02, 2018

Baldwin's Ohio Revised Code Annotated

Title XXI, Courts--Probate--Juvenile (Refs & Annos)

Chapter 2152, Juvenile Courts--Criminal Provisions (Refs & Annos)

Juvenile Offender Registrants

R.C. § 2152.86

2152.86 Duties of court in event of delinquency adjudication, release of child from department of youth services, or classification of child as juvenile offender registrant; automatic sex offender/child-victim offender classification; right to request hearing to contest classification

Effective: March 22, 2013

Currentness

(A)(1) The court that, on or after January 1, 2008, adjudicates a child a delinquent child for committing an act shall issue as part of the dispositional order an order that classifies the child a juvenile offender registrant, specifies that the child has a duty to comply with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code, and additionally classifies the child a public registry-qualified juvenile offender registrant if the child was fourteen, fifteen, sixteen, or seventeen years of age at the time of committing the act, the court imposed on the child a serious youthful offender dispositional sentence under section 2152.13 of the Revised Code, and the child is adjudicated a delinquent child for committing, attempting to commit, conspiring to commit, or complicity in committing any of the following acts:

(a) A violation of section 2907.02 of the Revised Code, division (B) of section 2907.05 of the Revised Code, or section 2907.03 of the Revised Code if the victim of the violation was less than twelve years of age;

(b) A violation of section 2903.01, 2903.02, or 2905.01 of the Revised Code that was committed with a purpose to gratify the sexual needs or desires of the child;

(c) A violation of division (B) of section 2903.03 of the Revised Code.

(2) Upon a child's release, on or after January 1, 2008, from the department of youth services, the court shall issue an order that classifies the child a juvenile offender registrant, specifies that the child has a duty to comply with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code, and additionally classifies the child a public registry-qualified juvenile offender registrant if all of the following apply:

(a) The child was adjudicated a delinquent child, and a juvenile court imposed on the child a serious youthful offender dispositional sentence under section 2152.13 of the Revised Code for committing one of the acts described in division (A)(1)(a) or (b) of this section or for committing on or after the effective date of this amendment a violation of division (B) of section 2903.03 of the Revised Code.

(b) The child was fourteen, fifteen, sixteen, or seventeen years of age at the time of committing the act.

(c) The court did not issue an order classifying the child as both a juvenile offender registrant and a public registry-qualified juvenile offender registrant pursuant to division (A)(1) of this section.

(3) If a court issued an order classifying a child a juvenile offender registrant pursuant to section 2152.82 or 2152.83 of the Revised Code prior to January 1, 2008, not later than February 1, 2008, the court shall issue a new order that reclassifies the child as a juvenile offender registrant, specifies that the child has a duty to comply with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code, and additionally classifies the child a public registry-qualified juvenile offender registrant if all of the following apply:

(a) The sexually oriented offense that was the basis of the previous order that classified the child a juvenile offender registrant was an act described in division (A)(1)(a) or (b) of this section.

(b) The child was fourteen, fifteen, sixteen, or seventeen years of age at the time of committing the act.

(c) The court imposed on the child a serious youthful offender dispositional sentence under section 2152.13 of the Revised Code for the act described in division (A)(1)(a) or (b) of this section.

(B)(1) If an order is issued under division (A)(1), (2), or (3) of this section, the classification of tier III sex offender/child-victim offender automatically applies to the delinquent child based on the sexually oriented offense the child committed, subject to a possible reclassification pursuant to division (D) of this section for a child whose delinquent act was committed prior to January 1, 2008. If an order is issued under division (A)(2) of this section regarding a child whose delinquent act described in division (A)(1)(a) or (b) of this section was committed prior to January 1, 2008, or if an order is issued under division (A)(3) of this section regarding a delinquent child, the order shall inform the child and the child's parent, guardian, or custodian, that the child has a right to a hearing as described in division (D) of this section and inform the child and the child's parent, guardian, or custodian of the procedures for requesting the hearing and the period of time within which the request for the hearing must be made. Section 2152.831 of the Revised Code does not apply regarding an order issued under division (A)(1), (2), or (3) of this section.

(2) The judge that issues an order under division (A)(1), (2), or (3) of this section shall provide to the delinquent child who is the subject of the order and to the delinquent child's parent, guardian, or custodian the notice required under divisions (A) and (B) of section 2950.03 of the Revised Code and shall provide as part of that notice a copy of the order required under division (A)(1), (2), or (3) of this section. The judge shall include the order in the delinquent child's dispositional order and shall specify in the dispositional order that the order issued under division (A)(1), (2), or (3) of this section was made pursuant to this section.

(C) An order issued under division (A)(1), (2), or (3) of this section shall remain in effect for the period of time specified in section 2950.07 of the Revised Code as it exists on and after January 1, 2008, subject to a judicial termination of that period of time as provided in section 2950.15 of the Revised Code, subject to a possible reclassification of the child pursuant to division (D) of this section if the child's delinquent act was committed prior to January 1, 2008. If an order is issued under division (A)(1), (2), or (3) of this section, the child's attainment of eighteen or twenty-one years of age does not affect or terminate the order, and the order remains in effect for the period of time described in this division. If an order is issued under division (A)(3) of this section, the duty to comply with sections 2950.04, 2950.041, 2950.05, and

2950.06 of the Revised Code based upon that order shall be considered, for purposes of section 2950.07 of the Revised Code and for all other purposes, to be a continuation of the duty to comply with those sections imposed upon the child prior to January 1, 2008, under the order issued under section 2152.82, 2152.83, 2152.84, or 2152.85 and Chapter 2950, of the Revised Code.

(D)(1) If an order is issued under division (A)(2) of this section regarding a delinquent child whose delinquent act described in division (A)(1)(a) or (b) of this section was committed prior to January 1, 2008, or if an order is issued under division (A)(3) of this section regarding a delinquent child, except as otherwise provided in this division, the child may request as a matter of right a court hearing to contest the court's classification in the order of the child as a public registry-qualified juvenile offender registrant. To request the hearing, not later than the date that is sixty days after the delinquent child is provided with the copy of the order, the delinquent child shall file a petition with the juvenile court that issued the order.

If the delinquent child requests a hearing by timely filing a petition with the juvenile court, the delinquent child shall serve a copy of the petition on the prosecutor who handled the case in which the delinquent child was adjudicated a delinquent child for committing the sexually oriented offense or child-victim oriented offense that resulted in the delinquent child's registration duty under section 2950.04 or 2950.041 of the Revised Code. The prosecutor shall represent the interest of the state in the hearing. In any hearing under this division, the Rules of Juvenile Procedure apply except to the extent that those Rules would by their nature be clearly inapplicable. The court shall schedule a hearing and shall provide notice to the delinquent child and the delinquent child's parent, guardian, or custodian and to the prosecutor of the date, time, and place of the hearing.

If the delinquent child requests a hearing in accordance with this division, until the court issues its decision at or subsequent to the hearing, the delinquent child shall comply with Chapter 2950, of the Revised Code as it exists on and after January 1, 2008. If a delinquent child requests a hearing in accordance with this division, at the hearing, all parties are entitled to be heard, and the court shall consider all relevant information and testimony presented relative to the issue of whether the child should be classified a public registry-qualified juvenile offender registrant. Notwithstanding the court's classification of the delinquent child as a public registry-qualified juvenile offender registrant, the court may terminate that classification if it determines by clear and convincing evidence that the classification is in error.

If the court decides to terminate the court's classification of the delinquent child as a public registry-qualified juvenile offender registrant, the court shall issue an order that specifies that it has determined that the child is not a public registry-qualified juvenile offender registrant and that it has terminated the court's classification of the delinquent child as a public registry-qualified juvenile offender registrant. The court promptly shall serve a copy of the order upon the sheriff with whom the delinquent child most recently registered under section 2950.04 or 2950.041 of the Revised Code and upon the bureau of criminal identification and investigation. The delinquent child and the prosecutor have the right to appeal the decision of the court issued under this division.

If the delinquent child fails to request a hearing in accordance with this division within the applicable sixty-day period specified in this division, the failure constitutes a waiver by the delinquent child of the delinquent child's right to a hearing under this division, and the delinquent child is bound by the court's classification of the delinquent child as a public registry-qualified juvenile offender registrant.

(2) An order issued under division (D)(1) of this section is independent of any order of a type described in division (F) of section 2950.031 of the Revised Code or division (E) of section 2950.032 of the Revised Code, and the court may issue an order under both division (D)(1) of this section and an order of a type described in division (F) of section 2950.031 of the Revised Code or division (E) of section 2950.032 of the Revised Code. A court that conducts a hearing under division



2152.86 Duties of court in event of delinquency adjudication, ..., OH ST § 2152.86

(D)(1) of this section may consolidate that hearing with a hearing conducted for the same delinquent child under division (F) of section 2950.031 of the Revised Code or division (E) of section 2950.032 of the Revised Code.

**CREDIT(S)**

(2012 S 160, eff. 3-22-13; 2007 S 10, eff. 1-1-08)

**VALIDITY**

For validity of this section, see In re C.P., 131 Ohio St.3d 513, 2012 -Ohio- 1446.

**Notes of Decisions (4)**

R.C. § 2152.86, OH ST § 2152.86

Current through File 75, 77 to 81, 83 and 84 of the 132nd General Assembly (2017-2018), 2017 State Issue 1, and 2018 State Issue 1.

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KeyCite Yellow Flag - Negative Treatment

Unconstitutional or Preempted Limitation Recognized by *Hautzenroeder v. Dewine*, 6th Cir.(Ohio), Apr. 11, 2018

KeyCite Yellow Flag - Negative Treatment

Proposed Legislation

Baldwin's Ohio Revised Code Annotated

Title XXIX. Crimes—Procedure (Refs & Annos)

Chapter 2950. Sex Offenders (Refs & Annos)

R.C. § 2950.01

2950.01 Definitions

Effective: October 12, 2016

Currentness

As used in this chapter, unless the context clearly requires otherwise:

(A) "Sexually oriented offense" means any of the following violations or offenses committed by a person, regardless of the person's age:

(1) A violation of section 2907.02, 2907.03, 2907.05, 2907.06, 2907.07, 2907.08, 2907.21, 2907.22, 2907.32, 2907.321, 2907.322, or 2907.323 of the Revised Code;

(2) A violation of section 2907.04 of the Revised Code when the offender is less than four years older than the other person with whom the offender engaged in sexual conduct, the other person did not consent to the sexual conduct, and the offender previously has not been convicted of or pleaded guilty to a violation of section 2907.02, 2907.03, or 2907.04 of the Revised Code or a violation of former section 2907.12 of the Revised Code;

(3) A violation of section 2907.04 of the Revised Code when the offender is at least four years older than the other person with whom the offender engaged in sexual conduct or when the offender is less than four years older than the other person with whom the offender engaged in sexual conduct and the offender previously has been convicted of or pleaded guilty to a violation of section 2907.02, 2907.03, or 2907.04 of the Revised Code or a violation of former section 2907.12 of the Revised Code;

(4) A violation of section 2903.01, 2903.02, or 2903.11 of the Revised Code when the violation was committed with a sexual motivation;

(5) A violation of division (A) of section 2903.04 of the Revised Code when the offender committed or attempted to commit the felony that is the basis of the violation with a sexual motivation;

(6) A violation of division (A)(3) of section 2903.211 of the Revised Code;

(7) A violation of division (A)(1), (2), (3), or (5) of section 2905.01 of the Revised Code when the offense is committed with a sexual motivation;

(8) A violation of division (A)(4) of section 2905.01 of the Revised Code;

(9) A violation of division (B) of section 2905.01 of the Revised Code when the victim of the offense is under eighteen years of age and the offender is not a parent of the victim of the offense;

(10) A violation of division (B) of section 2903.03, of division (B) of section 2905.02, of division (B) of section 2905.03, of division (B) of section 2905.05, or of division (B)(5) of section 2919.22 of the Revised Code;

(11) A violation of section 2905.32 of the Revised Code when any of the following applies:

(a) The violation is a violation of division (A)(1) of that section and the offender knowingly recruited, lured, enticed, isolated, harbored, transported, provided, obtained, or maintained, or knowingly attempted to recruit, lure, entice, isolate, harbor, transport, provide, obtain, or maintain, another person knowing that the person would be compelled to engage in sexual activity for hire, engage in a performance that was obscene, sexually oriented, or nudity oriented, or be a model or participant in the production of material that was obscene, sexually oriented, or nudity oriented.

(b) The violation is a violation of division (A)(2) of that section and the offender knowingly recruited, lured, enticed, isolated, harbored, transported, provided, obtained, or maintained, or knowingly attempted to recruit, lure, entice, isolate, harbor, transport, provide, obtain, or maintain a person who is less than sixteen years of age or is a person with a developmental disability whom the offender knows or has reasonable cause to believe is a person with a developmental disability for any purpose listed in divisions (A)(2)(a) to (c) of that section.

(c) The violation is a violation of division (A)(3) of that section, the offender knowingly recruited, lured, enticed, isolated, harbored, transported, provided, obtained, or maintained, or knowingly attempted to recruit, lure, entice, isolate, harbor, transport, provide, obtain, or maintain a person who is sixteen or seventeen years of age for any purpose listed in divisions (A)(2)(a) to (c) of that section, and the circumstances described in division (A)(5), (6), (7), (8), (9), (10), (11), (12), or (13) of section 2907.03 of the Revised Code apply with respect to the offender and the other person.

(12) A violation of any former law of this state, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States that is or was substantially equivalent to any offense listed in division (A)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), or (11) of this section;

(13) A violation of division (A)(3) of section 2907.24 of the Revised Code;

(14) Any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in division (A)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), or (13) of this section.

(B)(1) "Sex offender" means, subject to division (B)(2) of this section, a person who is convicted of, pleads guilty to, has been convicted of, has pleaded guilty to, is adjudicated a delinquent child for committing, or has been adjudicated a delinquent child for committing any sexually oriented offense.

(2) "Sex offender" does not include a person who is convicted of, pleads guilty to, has been convicted of, has pleaded guilty to, is adjudicated a delinquent child for committing, or has been adjudicated a delinquent child for committing a sexually oriented offense if the offense involves consensual sexual conduct or consensual sexual contact and either of the following applies:

(a) The victim of the sexually oriented offense was eighteen years of age or older and at the time of the sexually oriented offense was not under the custodial authority of the person who is convicted of, pleads guilty to, has been convicted of, has pleaded guilty to, is adjudicated a delinquent child for committing, or has been adjudicated a delinquent child for committing the sexually oriented offense.

(b) The victim of the offense was thirteen years of age or older, and the person who is convicted of, pleads guilty to, has been convicted of, has pleaded guilty to, is adjudicated a delinquent child for committing, or has been adjudicated a delinquent child for committing the sexually oriented offense is not more than four years older than the victim.

(C) "Child-victim oriented offense" means any of the following violations or offenses committed by a person, regardless of the person's age, when the victim is under eighteen years of age and is not a child of the person who commits the violation:

(1) A violation of division (A)(1), (2), (3), or (5) of section 2905.01 of the Revised Code when the violation is not included in division (A)(7) of this section;

(2) A violation of division (A) of section 2905.02, division (A) of section 2905.03, or division (A) of section 2905.05 of the Revised Code;

(3) A violation of any former law of this state, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States that is or was substantially equivalent to any offense listed in division (C)(1) or (2) of this section;

(4) Any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in division (C)(1), (2), or (3) of this section.

(D) "Child-victim offender" means a person who is convicted of, pleads guilty to, has been convicted of, has pleaded guilty to, is adjudicated a delinquent child for committing, or has been adjudicated a delinquent child for committing any child-victim oriented offense.

(E) "Tier I sex offender/child-victim offender" means any of the following:

(1) A sex offender who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to any of the following sexually oriented offenses:

(a) A violation of section 2907.06, 2907.07, 2907.08, 2907.22, or 2907.32 of the Revised Code;

(b) A violation of section 2907.04 of the Revised Code when the offender is less than four years older than the other person with whom the offender engaged in sexual conduct, the other person did not consent to the sexual conduct, and the offender previously has not been convicted of or pleaded guilty to a violation of section 2907.02, 2907.03, or 2907.04 of the Revised Code or a violation of former section 2907.12 of the Revised Code;

(c) A violation of division (A)(1), (2), (3), or (5) of section 2907.05 of the Revised Code;

(d) A violation of division (A)(3) of section 2907.323 of the Revised Code;

(e) A violation of division (A)(3) of section 2903.211, of division (B) of section 2905.03, or of division (B) of section 2905.05 of the Revised Code;

(f) A violation of any former law of this state, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States, that is or was substantially equivalent to any offense listed in division (E)(1)(a), (b), (c), (d), or (e) of this section;

(g) Any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in division (E)(1)(a), (b), (c), (d), (e), or (f) of this section.

(2) A child-victim offender who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to a child-victim oriented offense and who is not within either category of child-victim offender described in division (F)(2) or (G)(2) of this section.

(3) A sex offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing any sexually oriented offense and who a juvenile court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a tier I sex offender/child-victim offender relative to the offense.

(4) A child-victim offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing any child-victim oriented offense and who a juvenile court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a tier I sex offender/child-victim offender relative to the offense.

(F) "Tier II sex offender/child-victim offender" means any of the following:

(1) A sex offender who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to any of the following sexually oriented offenses:

(a) A violation of section 2907.21, 2907.321, or 2907.322 of the Revised Code;

(b) A violation of section 2907.04 of the Revised Code when the offender is at least four years older than the other person with whom the offender engaged in sexual conduct, or when the offender is less than four years older than the other person with whom the offender engaged in sexual conduct and the offender previously has been convicted of or pleaded guilty to a violation of section 2907.02, 2907.03, or 2907.04 of the Revised Code or former section 2907.12 of the Revised Code;

(c) A violation of division (A)(4) of section 2907.05, of division (A)(3) of section 2907.24, or of division (A)(1) or (2) of section 2907.323 of the Revised Code;

(d) A violation of division (A)(1), (2), (3), or (5) of section 2905.01 of the Revised Code when the offense is committed with a sexual motivation;

(e) A violation of division (A)(4) of section 2905.01 of the Revised Code when the victim of the offense is eighteen years of age or older;

(f) A violation of division (B) of section 2905.02 or of division (B)(5) of section 2919.22 of the Revised Code;

(g) A violation of section 2905.32 of the Revised Code that is described in division (A)(11)(a), (b), or (c) of this section;

(h) A violation of any former law of this state, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States that is or was substantially equivalent to any offense listed in division (F)(1)(a), (b), (c), (d), (e), (f), or (g) of this section;

(i) Any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in division (F)(1)(a), (b), (c), (d), (e), (f), (g), or (h) of this section;

(j) Any sexually oriented offense that is committed after the sex offender previously has been convicted of, pleaded guilty to, or has been adjudicated a delinquent child for committing any sexually oriented offense or child-victim oriented offense for which the offender was classified a tier I sex offender/child-victim offender.

(2) A child-victim offender who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to any child-victim oriented offense when the child-victim oriented offense is committed after the child-victim offender previously has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for committing any sexually oriented offense or child-victim oriented offense for which the offender was classified a tier I sex offender/child-victim offender.

(3) A sex offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing any sexually oriented offense and who a juvenile court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a tier II sex offender/child-victim offender relative to the offense.

(4) A child-victim offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing any child-victim oriented offense and whom a juvenile court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a tier II sex offender/child-victim offender relative to the current offense.

(5) A sex offender or child-victim offender who is not in any category of tier II sex offender/child-victim offender set forth in division (F)(1), (2), (3), or (4) of this section, who prior to January 1, 2008, was adjudicated a delinquent child for committing a sexually oriented offense or child-victim oriented offense, and who prior to that date was determined to be a habitual sex offender or determined to be a habitual child-victim offender, unless either of the following applies:

(a) The sex offender or child-victim offender is reclassified pursuant to section 2950.031 or 2950.032 of the Revised Code as a tier I sex offender/child-victim offender or a tier III sex offender/child-victim offender relative to the offense.

(b) A juvenile court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code, classifies the child a tier I sex offender/child-victim offender or a tier III sex offender/child-victim offender relative to the offense.

(G) "Tier III sex offender/child-victim offender" means any of the following:

(1) A sex offender who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to any of the following sexually oriented offenses:

(a) A violation of section 2907.02 or 2907.03 of the Revised Code;

(b) A violation of division (B) of section 2907.05 of the Revised Code;

(c) A violation of section 2903.01, 2903.02, or 2903.11 of the Revised Code when the violation was committed with a sexual motivation;

(d) A violation of division (A) of section 2903.04 of the Revised Code when the offender committed or attempted to commit the felony that is the basis of the violation with a sexual motivation;

(e) A violation of division (A)(4) of section 2905.01 of the Revised Code when the victim of the offense is under eighteen years of age;

(f) A violation of division (B) of section 2905.01 of the Revised Code when the victim of the offense is under eighteen years of age and the offender is not a parent of the victim of the offense;

(g) A violation of division (B) of section 2903.03 of the Revised Code;

(h) A violation of any former law of this state, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States that is or was substantially equivalent to any offense listed in division (G)(1)(a), (b), (c), (d), (e), (f), or (g) of this section;

(i) Any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in division (G)(1)(a), (b), (c), (d), (e), (f), (g), or (h) of this section;

(j) Any sexually oriented offense that is committed after the sex offender previously has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for committing any sexually oriented offense or child-victim oriented offense for which the offender was classified a tier II sex offender/child-victim offender or a tier III sex offender/child-victim offender.

(2) A child-victim offender who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to any child-victim oriented offense when the child-victim oriented offense is committed after the child-victim offender previously has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for committing any sexually oriented offense or child-victim oriented offense for which the offender was classified a tier II sex offender/child-victim offender or a tier III sex offender/child-victim offender.

(3) A sex offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing any sexually oriented offense and who a juvenile court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a tier III sex offender/child-victim offender relative to the offense.

(4) A child-victim offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing any child-victim oriented offense and whom a juvenile court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code, classifies a tier III sex offender/child-victim offender relative to the current offense.

(5) A sex offender or child-victim offender who is not in any category of tier III sex offender/child-victim offender set forth in division (G)(1), (2), (3), or (4) of this section, who prior to January 1, 2008, was convicted of or pleaded guilty to a sexually oriented offense or child-victim oriented offense or was adjudicated a delinquent child for committing a sexually oriented offense or child-victim oriented offense and classified a juvenile offender registrant, and who prior to that date was adjudicated a sexual predator or adjudicated a child-victim predator, unless either of the following applies:

(a) The sex offender or child-victim offender is reclassified pursuant to section 2950.031 or 2950.032 of the Revised Code as a tier I sex offender/child-victim offender or a tier II sex offender/child-victim offender relative to the offense.



(b) The sex offender or child-victim offender is a delinquent child, and a juvenile court, pursuant to section 2152.82, 2152.83, 2152.84, or 2152.85 of the Revised Code, classifies the child a tier I sex offender/child-victim offender or a tier II sex offender/child-victim offender relative to the offense.

(6) A sex offender who is convicted of, pleads guilty to, was convicted of, or pleaded guilty to a sexually oriented offense, if the sexually oriented offense and the circumstances in which it was committed are such that division (F) of section 2971.03 of the Revised Code automatically classifies the offender as a tier III sex offender/child-victim offender;

(7) A sex offender or child-victim offender who is convicted of, pleads guilty to, was convicted of, pleaded guilty to, is adjudicated a delinquent child for committing, or was adjudicated a delinquent child for committing a sexually oriented offense or child-victim offense in another state, in a federal court, military court, or Indian tribal court, or in a court in any nation other than the United States if both of the following apply:

(a) Under the law of the jurisdiction in which the offender was convicted or pleaded guilty or the delinquent child was adjudicated, the offender or delinquent child is in a category substantially equivalent to a category of tier III sex offender/child-victim offender described in division (G)(1), (2), (3), (4), (5), or (6) of this section.

(b) Subsequent to the conviction, plea of guilty, or adjudication in the other jurisdiction, the offender or delinquent child resides, has temporary domicile, attends school or an institution of higher education, is employed, or intends to reside in this state in any manner and for any period of time that subjects the offender or delinquent child to a duty to register or provide notice of intent to reside under section 2950.04 or 2950.041 of the Revised Code.

(H) "Confinement" includes, but is not limited to, a community residential sanction imposed pursuant to section 2929.16 or 2929.26 of the Revised Code.

(I) "Prosecutor" has the same meaning as in section 2935.01 of the Revised Code.

(J) "Supervised release" means a release of an offender from a prison term, a term of imprisonment, or another type of confinement that satisfies either of the following conditions:

(1) The release is on parole, a conditional pardon, under a community control sanction, under transitional control, or under a post-release control sanction, and it requires the person to report to or be supervised by a parole officer, probation officer, field officer, or another type of supervising officer.

(2) The release is any type of release that is not described in division (J)(1) of this section and that requires the person to report to or be supervised by a probation officer, a parole officer, a field officer, or another type of supervising officer.

(K) "Sexually violent predator specification," "sexually violent predator," "sexually violent offense," "sexual motivation specification," "designated homicide, assault, or kidnapping offense," and "violent sex offense" have the same meanings as in section 2971.01 of the Revised Code.

(L) "Post-release control sanction" and "transitional control" have the same meanings as in section 2967.01 of the Revised Code.

(M) "Juvenile offender registrant" means a person who is adjudicated a delinquent child for committing on or after January 1, 2002, a sexually oriented offense or a child-victim oriented offense, who is fourteen years of age or older at the time of committing the offense, and who a juvenile court judge, pursuant to an order issued under section 2152.82, 2152.83, 2152.84, 2152.85, or 2152.86 of the Revised Code, classifies a juvenile offender registrant and specifies has a duty to comply with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code. "Juvenile offender registrant" includes a person who prior to January 1, 2008, was a "juvenile offender registrant" under the definition of the term in existence prior to January 1, 2008, and a person who prior to July 31, 2003, was a "juvenile sex offender registrant" under the former definition of that former term.

(N) "Public registry-qualified juvenile offender registrant" means a person who is adjudicated a delinquent child and on whom a juvenile court has imposed a serious youthful offender dispositional sentence under section 2152.13 of the Revised Code before, on, or after January 1, 2008, and to whom all of the following apply:

(1) The person is adjudicated a delinquent child for committing, attempting to commit, conspiring to commit, or complicity in committing one of the following acts:

(a) A violation of section 2907.02 of the Revised Code, division (B) of section 2907.05 of the Revised Code, or section 2907.03 of the Revised Code if the victim of the violation was less than twelve years of age;

(b) A violation of section 2903.01, 2903.02, or 2905.01 of the Revised Code that was committed with a purpose to gratify the sexual needs or desires of the child;

(c) A violation of division (B) of section 2903.03 of the Revised Code.

(2) The person was fourteen, fifteen, sixteen, or seventeen years of age at the time of committing the act.

(3) A juvenile court judge, pursuant to an order issued under section 2152.86 of the Revised Code, classifies the person a juvenile offender registrant, specifies the person has a duty to comply with sections 2950.04, 2950.05, and 2950.06 of the Revised Code, and classifies the person a public registry-qualified juvenile offender registrant, and the classification of the person as a public registry-qualified juvenile offender registrant has not been terminated pursuant to division (D) of section 2152.86 of the Revised Code.

(O) "Secure facility" means any facility that is designed and operated to ensure that all of its entrances and exits are locked and under the exclusive control of its staff and to ensure that, because of that exclusive control, no person who is institutionalized or confined in the facility may leave the facility without permission or supervision.

(P) "Out-of-state juvenile offender registrant" means a person who is adjudicated a delinquent child in a court in another state, in a federal court, military court, or Indian tribal court, or in a court in any nation other than the United States for

committing a sexually oriented offense or a child-victim oriented offense, who on or after January 1, 2002, moves to and resides in this state or temporarily is domiciled in this state for more than five days, and who has a duty under section 2950.04 or 2950.041 of the Revised Code to register in this state and the duty to otherwise comply with that applicable section and sections 2950.05 and 2950.06 of the Revised Code. "Out-of-state juvenile offender registrant" includes a person who prior to January 1, 2008, was an "out-of-state juvenile offender registrant" under the definition of the term in existence prior to January 1, 2008, and a person who prior to July 31, 2003, was an "out-of-state juvenile sex offender registrant" under the former definition of that former term.

(Q) "Juvenile court judge" includes a magistrate to whom the juvenile court judge confers duties pursuant to division (A)(15) of section 2151.23 of the Revised Code.

(R) "Adjudicated a delinquent child for committing a sexually oriented offense" includes a child who receives a serious youthful offender dispositional sentence under section 2152.13 of the Revised Code for committing a sexually oriented offense.

(S) "School" and "school premises" have the same meanings as in section 2925.01 of the Revised Code.

(T) "Residential premises" means the building in which a residential unit is located and the grounds upon which that building stands, extending to the perimeter of the property. "Residential premises" includes any type of structure in which a residential unit is located, including, but not limited to, multi-unit buildings and mobile and manufactured homes.

(U) "Residential unit" means a dwelling unit for residential use and occupancy, and includes the structure or part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or two or more persons who maintain a common household. "Residential unit" does not include a halfway house or a community-based correctional facility.

(V) "Multi-unit building" means a building in which is located more than twelve residential units that have entry doors that open directly into the unit from a hallway that is shared with one or more other units. A residential unit is not considered located in a multi-unit building if the unit does not have an entry door that opens directly into the unit from a hallway that is shared with one or more other units or if the unit is in a building that is not a multi-unit building as described in this division.

(W) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.

(X) "Halfway house" and "community-based correctional facility" have the same meanings as in section 2929.01 of the Revised Code.

#### CREDIT(S)

(2016 H 158, eff. 10-12-16; 2014 H 130, eff. 6-20-14; 2012 S 160, eff. 3-22-13; 2012 H 262, eff. 6-27-12; 2007 S 10, eff. 1-1-08; 2006 S 260, eff. 1-2-07; 2004 H 473, eff. 4-29-05; 2003 S 57, eff. 1-1-04; 2003 S 5, § 3, eff. 1-1-04; 2003 S 5, § 1, eff. 7-31-03; 2002 H 490, eff. 1-1-04; 2002 H 485, eff. 6-13-02; 2002 S 175, eff. 5-7-02; 2002 H 393, eff. 7-5-02; 2001 S 3, eff. 1-1-02; 2000 H 502, eff. 3-15-01; 1998 H 565, eff. 3-30-99; 1997 S 111, eff. 3-17-98; 1996 H 180, eff. 1-1-97)

2950.01 Definitions, OH ST § 2950.01

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Notes of Decisions (441)


R.C. § 2950.01, OH ST § 2950.01

Current through File 75, 77 to 81, 83 and 84 of the 132nd General Assembly (2017-2018), 2017 State Issue 1, and 2018 State Issue 1.

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 KeyCite Red Flag - Severe Negative Treatment

Unconstitutional or PreemptedUnconstitutional as Applied by In re Bruce S., Ohio, Dec. 06, 2012

Baldwin's Ohio Revised Code Annotated
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Title XXIX. Crimes--Procedure (Refs & Annos)
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Chapter 2950. Sex Offenders (Refs & Annos)
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R.C. § 2950.02

2950.02 Legislative findings; public policy declaration

Effective: January 1, 2008

Currentness

(A) The general assembly hereby determines and declares that it recognizes and finds all of the following:

(1) If the public is provided adequate notice and information about offenders and delinquent children who commit sexually oriented offenses or who commit child-victim oriented offenses, members of the public and communities can develop constructive plans to prepare themselves and their children for the offender's or delinquent child's release from imprisonment, a prison term, or other confinement or detention. This allows members of the public and communities to meet with members of law enforcement agencies to prepare and obtain information about the rights and responsibilities of the public and the communities and to provide education and counseling to their children.

(2) Sex offenders and child-victim offenders pose a risk of engaging in further sexually abusive behavior even after being released from imprisonment, a prison term, or other confinement or detention, and protection of members of the public from sex offenders and child-victim offenders is a paramount governmental interest.

(3) The penal, juvenile, and mental health components of the justice system of this state are largely hidden from public view, and a lack of information from any component may result in the failure of the system to satisfy this paramount governmental interest of public safety described in division (A)(2) of this section.

(4) Overly restrictive confidentiality and liability laws governing the release of information about sex offenders and child-victim offenders have reduced the willingness to release information that could be appropriately released under the public disclosure laws and have increased risks of public safety.

(5) A person who is found to be a sex offender or a child-victim offender has a reduced expectation of privacy because of the public's interest in public safety and in the effective operation of government.

**2950.02 Legislative findings; public policy declaration, OH ST § 2950.02**

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(6) The release of information about sex offenders and child-victim offenders to public agencies and the general public will further the governmental interests of public safety and public scrutiny of the criminal, juvenile, and mental health systems as long as the information released is rationally related to the furtherance of those goals.

(B) The general assembly hereby declares that, in providing in this chapter for registration regarding offenders and certain delinquent children who have committed sexually oriented offenses or who have committed child-victim oriented offenses and for community notification regarding tier III sex offenders/child-victim offenders who are criminal offenders, public registry-qualified juvenile offender registrants, and certain other juvenile offender registrants who are about to be or have been released from imprisonment, a prison term, or other confinement or detention and who will live in or near a particular neighborhood or who otherwise will live in or near a particular neighborhood, it is the general assembly's intent to protect the safety and general welfare of the people of this state. The general assembly further declares that it is the policy of this state to require the exchange in accordance with this chapter of relevant information about sex offenders and child-victim offenders among public agencies and officials and to authorize the release in accordance with this chapter of necessary and relevant information about sex offenders and child-victim offenders to members of the general public as a means of assuring public protection and that the exchange or release of that information is not punitive.

**CREDIT(S)**

(2007 S 10, eff. 1-1-08; 2003 S 5, eff. 7-31-03; 2001 S 3, eff. 1-1-02; 1996 H 180, eff. 7-1-97)

Notes of Decisions (14)


R.C. § 2950.02, OH ST § 2950.02

Current through File 30 of the 133rd General Assembly (2019-2020).

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 KeyCite Red Flag - Severe Negative Treatment  
Unconstitutional or PreemptedUnconstitutional as Applied by In re Bruce S., Ohio, Dec. 06, 2012

Baldwin's Ohio Revised Code Annotated

Title XXIX. Crimes--Procedure (Refs & Annos)

Chapter 2950. Sex Offenders (Refs & Annos)

R.C. § 2950.07

2950.07 Duration of registration requirements

Effective: January 1, 2008

Currentness

(A) The duty of an offender who 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 and the duty of a delinquent child who 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 who is an out-of-state juvenile offender registrant to comply with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code commences on whichever of the following dates is applicable:

(1) If the offender's duty to register is imposed pursuant to division (A)(1)(a) of section 2950.04 or division (A)(1)(a) of section 2950.041 of the Revised Code, the offender's duty to comply with those sections commences immediately after the entry of the judgment of conviction.

(2) If the delinquent child's duty to register is imposed pursuant to division (A)(1)(b) of section 2950.04 or division (A)(1)(b) of section 2950.041 of the Revised Code, the delinquent child's duty to comply with those sections commences immediately after the order of disposition.

(3) If the offender's duty to register is imposed pursuant to division (A)(2) of section 2950.04 or division (A)(2) of section 2950.041 of the Revised Code, subject to division (A)(7) of this section, the offender's duty to comply with those sections commences on the date of the offender's release from a prison term, a term of imprisonment, or any other type of confinement, or if the offender is not sentenced to a prison term, a term of imprisonment, or any other type of confinement, on the date of the entry of the judgment of conviction of the sexually oriented offense or child-victim oriented offense.

(4) If the offender's or delinquent child's duty to register is imposed pursuant to division (A)(4) of section 2950.04 or division (A)(4) of section 2950.041 of the Revised Code, the offender's duty to comply with those sections commences regarding residence addresses on the date that the offender begins to reside or becomes temporarily domiciled in this state, the offender's duty regarding addresses of schools, institutions of higher education, and places of employment commences on the date the offender begins attending any school or institution of higher education in this state on a full-time or part-time basis or becomes employed in this state, and the delinquent child's duty commences on the date the delinquent child begins to reside or becomes temporarily domiciled in this state.

(5) If the delinquent child's duty to register is imposed pursuant to division (A)(3) of section 2950.04 or division (A)(3) of section 2950.041 of the Revised Code, if the delinquent child's classification as a juvenile offender registrant is made at the time of the child's disposition for that sexually oriented offense or child-victim oriented offense, whichever is applicable, and if the delinquent child is committed for the sexually oriented offense or child-victim oriented offense to the department of youth services or to a secure facility that is not operated by the department, the delinquent child's duty to comply with those sections commences on the date of the delinquent child's discharge or release from custody in the department of youth services secure facility or from the secure facility not operated by the department as described in that division.

(6) If the delinquent child's duty to register is imposed pursuant to division (A)(3) of section 2950.04 or division (A)(3) of section 2950.041 of the Revised Code and if either the delinquent child's classification as a juvenile offender registrant is made at the time of the child's disposition for that sexually oriented offense or child-victim oriented offense, whichever is applicable, and the delinquent child is not committed for the sexually oriented offense or child-victim oriented offense to the department of youth services or to a secure facility that is not operated by the department or the child's classification as a juvenile offender registrant is made pursuant to section 2152.83 or division (A)(2) of section 2152.86 of the Revised Code, subject to divisions (A)(7) of this section, the delinquent child's duty to comply with those sections commences on the date of entry of the court's order that classifies the delinquent child a juvenile offender registrant.

(7) If the offender's or delinquent child's duty to register is imposed pursuant to division (A)(2), (3), or (4) of section 2950.04 or section 2950.041 of the Revised Code and if the offender or delinquent child prior to January 1, 2008, has registered a residence, school, institution of higher education, or place of employment address pursuant to section 2950.04, 2950.041, or 2950.05 of the Revised Code as they existed prior to that date, the offender or delinquent child initially shall register in accordance with section 2950.04 or 2950.041 of the Revised Code, whichever is applicable, as it exists on and after January 1, 2008, not later than the earlier of the dates specified in divisions (A)(7)(a) and (b) of this section. The offender's or delinquent child's duty to comply thereafter with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code as they exist on and after January 1, 2008, commences on the date of that initial registration. The offender or delinquent child initially shall register under section 2950.04 or 2950.041 of the Revised Code as it exists on and after January 1, 2008, not later than the earlier of the following:

(a) The date that is six months after the date on which the offender or delinquent child received a registered letter from the attorney general under division (A)(2) or (B) of section 2950.031 of the Revised Code;

(b) The earlier of the date on which the offender or delinquent child would be required to verify a previously registered address under section 2950.06 of the Revised Code as it exists on and after January 1, 2008, or, if the offender or delinquent child has changed a previously registered address, the date on which the offender or delinquent child would be required to register a new residence, school, institution of higher education, or place of employment address under section 2950.05 of the Revised Code as it exists on and after January 1, 2008.

(8) If the offender's or delinquent child's duty to register was imposed pursuant to section 2950.04 or 2950.041 of the Revised Code as they existed prior to January 1, 2008, the offender's or delinquent child's duty to comply with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code as they exist on and after January 1, 2008, is a continuation of the offender's or delinquent child's former duty to register imposed prior to January 1, 2008, under section 2950.04 or 2950.041 of the Revised Code and shall be considered for all purposes as having commenced on the date that the offender's



duty under that section commenced.

(B) The duty of an offender who 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 and the duty of a delinquent child who 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 who is an out-of-state juvenile offender registrant to comply with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code continues, after the date of commencement, for whichever of the following periods is applicable:

(1) Except as otherwise provided in this division, if the person is an offender who is a tier III sex offender/child-victim offender relative to the sexually oriented offense or child-victim oriented offense, if the person is a delinquent child who is a tier III sex offender/child-victim offender relative to the sexually oriented offense or child-victim oriented offense, or if the person is a delinquent child who is a public registry-qualified juvenile offender registrant relative to the sexually oriented offense, the offender's or delinquent child's duty to comply with those sections continues until the offender's or delinquent child's death. Regarding a delinquent child who is a tier III sex offender/child-victim offender relative to the offense but is not a public registry-qualified juvenile offender registrant relative to the offense, if the judge who made the disposition for the delinquent child or that judge's successor in office subsequently enters a determination pursuant to section 2152.84 or 2152.85 of the Revised Code that the delinquent child no longer is a tier III sex offender/child-victim offender, the delinquent child's duty to comply with those sections continues for the period of time that is applicable to the delinquent child under division (B)(2) or (3) of this section, based on the reclassification of the child pursuant to section 2152.84 or 21562.85 of the Revised Code<sup>1</sup> as a tier I sex offender/child-victim offender or a tier II sex offender/child-victim offender. In no case shall the lifetime duty to comply that is imposed under this division on an offender who is a tier III sex offender/child-victim offender be removed or terminated. A delinquent child who is a public registry-qualified juvenile offender registrant may have the lifetime duty to register terminated only pursuant to section 2950.15 of the Revised Code.

(2) If the person is an offender who is a tier II sex offender/child-victim offender relative to the sexually oriented offense or child-victim oriented offense, the offender's duty to comply with those sections continues for twenty-five years. Except as otherwise provided in this division, if the person is a delinquent child who is a tier II sex offender/child-victim offender relative to the sexually oriented offense or child-victim oriented offense, the delinquent child's duty to comply with those sections continues for twenty years. Regarding a delinquent child who is a tier II sex offender/child-victim offender relative to the offense but is not a public registry-qualified juvenile offender registrant relative to the offense, if the judge who made the disposition for the delinquent child or that judge's successor in office subsequently enters a determination pursuant to section 2152.84 or 2152.85 of the Revised Code that the delinquent child no longer is a tier II sex offender/child-victim offender but remains a juvenile offender registrant, the delinquent child's duty to comply with those sections continues for the period of time that is applicable to the delinquent child under division (B)(3) of this section, based on the reclassification of the child pursuant to section 2152.84 or 2152.85 of the Revised Code as a tier I sex offender/child-victim offender.

(3) Except as otherwise provided in this division, if the person is an offender who is a tier I sex offender/child-victim offender relative to the sexually oriented offense or child-victim oriented offense, the offender's duty to comply with those sections continues for fifteen years. Except as otherwise provided in this division, if the person is a delinquent child who is a tier I sex offender/child-victim offender relative to the sexually oriented offense or child-victim oriented offense, the delinquent child's duty to comply with those sections continues for ten years. Regarding a delinquent child who is a juvenile offender registrant and a tier I sex offender/child-victim offender but is not a public registry-qualified juvenile offender registrant, if the judge who made the disposition for the delinquent child or that judge's successor in office subsequently enters a determination pursuant to section 2152.84 or 2152.85 of the Revised Code that the delinquent child no longer is to be classified a juvenile offender registrant, the delinquent child's duty to comply with those sections terminates upon the court's entry of the determination. A person who is an offender who is a tier I sex offender/child-victim offender may have the

fifteen-year duty to register terminated only pursuant to section 2950.15 of the Revised Code.

(C)(1) If an offender has been convicted of or pleaded guilty to a sexually oriented offense and the offender subsequently is convicted of or pleads guilty to another sexually oriented offense or a child-victim oriented offense, if an offender has been convicted of or pleaded guilty to a child-victim oriented offense and the offender subsequently is convicted of or pleads guilty to another child-victim oriented offense or a sexually oriented offense, if a delinquent child has been adjudicated a delinquent child for committing a sexually oriented offense and is classified a juvenile offender registrant or is an out-of-state juvenile offender registrant and the child subsequently is adjudicated a delinquent child for committing another sexually oriented offense or a child-victim oriented offense and is classified a juvenile offender registrant relative to that offense or subsequently is convicted of or pleads guilty to another sexually oriented offense or a child-victim oriented offense, or if a delinquent child has been adjudicated a delinquent child for committing a child-victim oriented offense and is classified a juvenile offender registrant or is an out-of-state juvenile offender registrant and the child subsequently is adjudicated a delinquent child for committing another child-victim oriented offense or a sexually oriented offense and is classified a juvenile offender registrant relative to that offense or subsequently is convicted of or pleads guilty to another child-victim oriented offense or a sexually oriented offense, the period of time for which the offender or delinquent child must comply with the sections specified in division (A) of this section shall be separately calculated pursuant to divisions (A)(1) to (8) and (B)(1) to (3) of this section for each of the sexually oriented offenses and child-victim oriented offenses, and the offender or delinquent child shall comply with each separately calculated period of time independently.

If a delinquent child has been adjudicated a delinquent child for committing a sexually oriented offense or a child-victim oriented offense, is classified a juvenile offender registrant or is an out-of-state juvenile offender registrant relative to that offense, and, after attaining eighteen years of age, subsequently is convicted of or pleads guilty to another sexually oriented offense or child-victim oriented offense, the subsequent conviction or guilty plea does not limit, affect, or supersede the duties imposed upon the delinquent child under this chapter relative to the delinquent child's classification as a juvenile offender registrant or as an out-of-state juvenile offender registrant, and the delinquent child shall comply with both those duties and the duties imposed under this chapter relative to the subsequent conviction or guilty plea.

(2) If a delinquent child 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 relative to the offense and if the juvenile judge or the judge's successor in office subsequently reclassifies the offense tier in which the child is classified pursuant to section 2152.84 or 2152.85 of the Revised Code, the judge's subsequent determination to reclassify the child does not affect the date of commencement of the delinquent child's duty to comply with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code as determined under division (A) of this section. The child's duty to comply with those sections after the reclassification is a continuation of the child's duty to comply with the sections that was in effect prior to the reclassification, and the duty shall continue for the period of time specified in division (B)(1), (2), or (3) of this section, whichever is applicable.

If, prior to January 1, 2008, an offender had a duty to comply with the sections specified in division (A) of this section as a result of a conviction of or plea of guilty to a sexually oriented offense or child-victim oriented offense as those terms were defined in section 2950.01 of the Revised Code prior to January 1, 2008, or a delinquent child had a duty to comply with those sections as a result of an adjudication as a delinquent child for committing one of those offenses as they were defined prior to January 1, 2008, the period of time specified in division (B)(1), (2), or (3) of this section on and after January 1, 2008, for which a person must comply with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code applies to the person, automatically replaces the period of time for which the person had to comply with those sections prior to January 1, 2008, and is a continuation of the person's duty to comply with the sections that was in effect prior to the reclassification. If, prior to January 1, 2008, an offender or a delinquent child had a duty to comply with the sections specified in division (A) of this section, the offender's or delinquent child's classification as a tier I sex offender/child-victim offender, a tier II sex offender/child-victim offender, or a tier III sex offender/child-victim offender for purposes of that period of time shall be

## 2950.07 Duration of registration requirements, OH ST § 2950.07

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determined as specified in section 2950.031 or 2950.032 of the Revised Code, as applicable.

(D) The duty of an offender or delinquent child to register under this chapter is tolled for any period during which the offender or delinquent child is returned to confinement in a secure facility for any reason or imprisoned for an offense when the confinement in a secure facility or imprisonment occurs subsequent to the date determined pursuant to division (A) of this section. The offender's or delinquent child's duty to register under this chapter resumes upon the offender's or delinquent child's release from confinement in a secure facility or imprisonment.

(E) An offender or delinquent child who has been or is convicted, has pleaded or pleads guilty, or has been or is adjudicated a delinquent child, in a court in another state, in a federal court, military court, or Indian tribal court, or in a court of any nation other than the United States for committing a sexually oriented offense or a child-victim oriented offense may apply to the sheriff of the county in which the offender or delinquent child resides or temporarily is domiciled, or in which the offender attends a school or institution of higher education or is employed, for credit against the duty to register for the time that the offender or delinquent child has complied with the sex offender or child-victim offender registration requirements of another jurisdiction. The sheriff shall grant the offender or delinquent child credit against the duty to register for time for which the offender or delinquent child provides adequate proof that the offender or delinquent child has complied with the sex offender or child-victim offender registration requirements of another jurisdiction. If the offender or delinquent child disagrees with the determination of the sheriff, the offender or delinquent child may appeal the determination to the court of common pleas of the county in which the offender or delinquent child resides or is temporarily domiciled, or in which the offender attends a school or institution of higher education or is employed.

### CREDIT(S)

(2007 S 10, eff. 1-1-08; 2003 S 5, eff. 7-31-03; 2002 H 485, eff. 6-13-02; 2001 S 3, eff. 1-1-02; 1998 H 565, eff. 3-30-99; 1996 H 180, eff. 7-1-97)

Notes of Decisions (34)

### Footnotes

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So in original. Should this read "2152.85 of the Revised Code"?

R.C. § 2950.07, OH ST § 2950.07  
Current through File 30 of the 133rd General Assembly (2019-2020).

End of Document

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Baldwin's Ohio Revised Code Annotated  
Title XXIX. Crimes--Procedure (Refs & Annos)  
Chapter 2950. Sex Offenders (Refs & Annos)

R.C. § 2950.99

2950.99 Penalties

Effective: September 30, 2011  
Currentness

(A)(1)(a) Except as otherwise provided in division (A)(1)(b) of this section, whoever violates a prohibition in section 2950.04, 2950.041, 2950.05, or 2950.06 of the Revised Code shall be punished as follows:

(i) If the most serious sexually oriented offense that was the basis of the registration, notice of intent to reside, change of address notification, or address verification requirement that was violated under the prohibition is aggravated murder or murder if committed by an adult or a comparable category of offense committed in another jurisdiction, the offender is guilty of a felony of the first degree.

(ii) If the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address notification, or address verification requirement that was violated under the prohibition is a felony of the first, second, third, or fourth degree if committed by an adult or a comparable category of offense committed in another jurisdiction, the offender is guilty of a felony of the same degree as the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address, or address verification requirement that was violated under the prohibition, or, if the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address, or address verification requirement that was violated under the prohibition is a comparable category of offense committed in another jurisdiction, the offender is guilty of a felony of the same degree as that offense committed in the other jurisdiction would constitute if committed in this state.

(iii) If the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address notification, or address verification requirement that was violated under the prohibition is a felony of the fifth degree or a misdemeanor if committed by an adult or a comparable category of offense committed in another jurisdiction, the offender is guilty of a felony of the fourth degree.

(b) If the offender previously has been convicted of or pleaded guilty to, or previously has been adjudicated a delinquent child for committing, a violation of a prohibition in section 2950.04, 2950.041, 2950.05, or 2950.06 of the Revised Code, whoever violates a prohibition in section 2950.04, 2950.041, 2950.05, or 2950.06 of the Revised Code shall be punished as follows:

(i) If the most serious sexually oriented offense that was the basis of the registration, notice of intent to reside, change of address notification, or address verification requirement that was violated under the prohibition is aggravated murder or murder if committed by an adult or a comparable category of offense committed in another jurisdiction, the offender is guilty of a felony of the first degree.

(ii) If the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address notification, or address verification requirement that was violated under the prohibition is a felony of the first, second, or third degree if committed by an adult or a comparable category of offense committed in another jurisdiction, the offender is guilty of a felony of the same degree as the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address, or address verification requirement that was violated under the prohibition, or, if the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address, or address verification requirement that was violated under the prohibition is a comparable category of offense committed in another jurisdiction, the offender is guilty of a felony of the same degree as that offense committed in the other jurisdiction would constitute if committed in this state.

(iii) If the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address notification, or address verification requirement that was violated under the prohibition is a felony of the fourth or fifth degree if committed by an adult or a comparable category of offense committed in another jurisdiction, the offender is guilty of a felony of the third degree.

(iv) If the most serious sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address notification, or address verification requirement that was violated under the prohibition is a misdemeanor if committed by an adult or a comparable category of offense committed in another jurisdiction, the offender is guilty of a felony of the fourth degree.

(2)(a) In addition to any penalty or sanction imposed under division (A)(1) of this section or any other provision of law for a violation of a prohibition in section 2950.04, 2950.041, 2950.05, or 2950.06 of the Revised Code, if the offender or delinquent child is subject to a community control sanction, is on parole, is subject to one or more post-release control sanctions, or is subject to any other type of supervised release at the time of the violation, the violation shall constitute a violation of the terms and conditions of the community control sanction, parole, post-release control sanction, or other type of supervised release.

(b) In addition to any penalty or sanction imposed under division (A)(1)(b)(i), (ii), or (iii) of this section or any other provision of law for a violation of a prohibition in section 2950.04, 2950.041, 2950.05, or 2950.06 of the Revised Code, if the offender previously has been convicted of or pleaded guilty to, or previously has been adjudicated a delinquent child for committing, a violation of a prohibition in section 2950.04, 2950.041, 2950.05, or 2950.06 of the Revised Code when the most serious sexually oriented offense or child-victim oriented offense that was the basis of the requirement that was violated under the prohibition is a felony if committed by an adult or a comparable category of offense committed in another jurisdiction, the court imposing a sentence upon the offender shall impose a definite prison term of no less than three years. The definite prison term imposed under this section, subject to divisions (C) to (I) of section 2967.19 of the Revised Code, shall not be reduced to less than three years pursuant to any provision of Chapter 2967. or any other provision of the Revised Code.

(3) As used in division (A)(1) of this section, "comparable category of offense committed in another jurisdiction" means a sexually oriented offense or child-victim oriented offense that was the basis of the registration, notice of intent to reside, change of address notification, or address verification requirement that was violated, that is a violation of an existing or former law of another state or the United States, an existing or former law applicable in a military court or in an Indian tribal court, or an existing or former law of any nation other than the United States, and that, if it had been committed in this state, would constitute or would have constituted aggravated murder or murder for purposes of division (A)(1)(a)(i) of this section, a felony of the first, second, third, or fourth degree for purposes of division (A)(1)(a)(ii) of this section, a felony of the fifth degree or a misdemeanor for purposes of division (A)(1)(a)(iii) of this section, aggravated murder or murder for purposes of division (A)(1)(b)(i) of this section, a felony of the first, second, or third degree for purposes of division (A)(1)(b)(ii) of this section,

**2950.99 Penalties, OH ST § 2950.99**

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a felony of the fourth or fifth degree for purposes of division (A)(1)(b)(iii) of this section, or a misdemeanor for purposes of division (A)(1)(b)(iv) of this section.

(B) If a person violates a prohibition in section 2950.04, 2950.041, 2950.05, or 2950.06 of the Revised Code that applies to the person as a result of the person being adjudicated a delinquent child and being classified a juvenile offender registrant or an out-of-state juvenile offender registrant, both of the following apply:

(1) If the violation occurs while the person is under eighteen years of age, the person is subject to proceedings under Chapter 2152. of the Revised Code based on the violation.

(2) If the violation occurs while the person is eighteen years of age or older, the person is subject to criminal prosecution based on the violation.

(C) Whoever violates division (C) of section 2950.13 of the Revised Code is guilty of a misdemeanor of the first degree.

**CREDIT(S)**

(2011 H 86, eff. 9-30-11; 2007 S 97, eff. 1-1-08; 2004 H 473, eff. 4-29-05; 2003 S 5, § 3, eff. 1-1-04; 2003 S 5, § 1, eff. 7-31-03; 2002 H 490, eff. 1-1-04; 2001 S 3, eff. 1-1-02; 1996 H 180, eff. 7-1-97; 1995 S 2, eff. 7-1-96; 1972 H 511, eff. 1-1-74; 130 v S 160)

R.C. § 2950.99, OH ST § 2950.99

Current through File 30 of the 133rd General Assembly (2019-2020).