



Office of the Ohio Public Defender

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Office of the Ohio Public Defender

Sex Offender Registration

R.C. Chapter 2950



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Legislation Overview

1993: S.B. 160, 130 Ohio Laws
669:

Original version of the statute and seldom used.



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Legislation Overview

1998: H.B. 180, 146 Ohio Laws,
Part II, 2560

Meagan's Law / H.B. 180



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Classification and Registration Requirements: H.B. 180

Classification	Registration Duties	Community Notification
Sexually Oriented Offender (SOO)	Once Annually for 10 Years	None
Habitual Sexual Offender	Every 180 Days for 20 Years	May Occur Every 180 Days for 20 Years
Sexual Predator	Every 90 Days for Life	May Occur Every 90 Days for Life



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Legislation Overview

2003: S.B. 5, 150 Ohio Laws,
Part IV, 6558

Meagan's Law—Amended



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Classification and Registration Requirements: H.B. 180 vs. S.B. 5

	H.B. 180 (effective 1998)	S.B. 5 (effective 2003)
Periodic Verification (SOO)	Annually for 10 years	Annually for 10 years
Periodic Verification (HSO)	Twice a year for 20 years	Twice a year for 20 years
Periodic Verification (SP)	Every 90 days for life	Every 90 days for life
Personal Offender Information provided to public	Name, residential address, offense of conviction	Name, offense, residential address, <i>employment address</i>
Where the offender must register	County of residence	County of residence, <i>county of employment, county of school</i>
Residency Restriction	None	<i>All sex offenders are prohibited from residing within 1000 feet of a school</i>



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Legislation Overview

2008: 2007 Am.S.B.
No. 10

Adam Walsh Act /
S.B. 10



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S.B. 10: Classification and Registration Requirements

Classification	Registration Duties	Community Notification
Tier I	Once Annually for 15 Years	None
Tier II	Every 180 Days for 25 Years	None
Tier III	Every 90 Days for Life	May Occur Every 90 Days for Life



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H.B. 180 vs. S.B. 5 vs. S.B. 10

	H.B. 180 (effective 1998)	S.B. 5 (effective 2003)	S.B. 10 (effective 2008)
Periodic Verification (lowest level: sexually oriented/Tier I)	Annually for 10 years	Annually for 10 years	Annually for 15 years
Periodic Verification (mid-level: habitual offender/Tier II)	Twice a year for 20 years	Twice a year for 20 years	<i>Twice a year for 25 years</i>
Periodic Verification (highest level: sexual predator/ Tier III)	Every 90 days for life	Every 90 days for life	Every 90 days for life
Personal Offender Information provided to public	Name, residential address, offense of conviction	Name, offense, residential address, <i>employment address</i>	Name, offense, residential address, employment address, <i>license plate, all motor vehicles registered, where offender parks; any aliases used by the offender; the name of the registrant's school, institution of higher education, and place of employment; the license plate number of any vehicle owned by or registered to the offender; the license plate number of any vehicle the offender operates as part of employment and any vehicle that is regularly available to or operated by the registrant; and the number of any driver's license, commercial driver's license, or state identification card</i>
Where the offender must register	County of residence	County of residence, <i>county of employment, county of school</i>	County of residence, county of employment, county of school
Residency Restriction	None	<i>All sex offenders are prohibited from residing within 1000 feet of a school</i>	All sex offenders are prohibited from residing within 1000 feet of school, <i>pre-school or day care</i>



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The Application of R.C. Chapter 2950



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State v. Cook, 83 Ohio St.3d 404, 700 N.E.2d 570 (1998): The Supreme Court of Ohio unanimously upheld the application of Megan's Law over retroactivity and ex post facto claims.



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State v. Cook, 83 Ohio St.3d 404, 700 N.E.2d 570 (1998): The Supreme Court of Ohio unanimously upheld the application of Megan's Law over retroactivity and ex post facto claims.

State v. Ferguson, 120 Ohio St.3d 7, 2008-Ohio-4824, 896 N.E.2d 110: The Supreme Court upheld the application of significant changes to H.B. 180 (via S.B. 5) over retroactivity and ex post facto claims.



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State v. Bodyke, 126 Ohio St.3d 266, 2010-Ohio-2424, 933 N.E.2d 753: The Supreme Court of Ohio severed R.C. 2950.031 and R.C. 2950.032 (requiring the attorney general to reclassify previously-classified sex offenders) as violative of the separation-of-powers doctrine.



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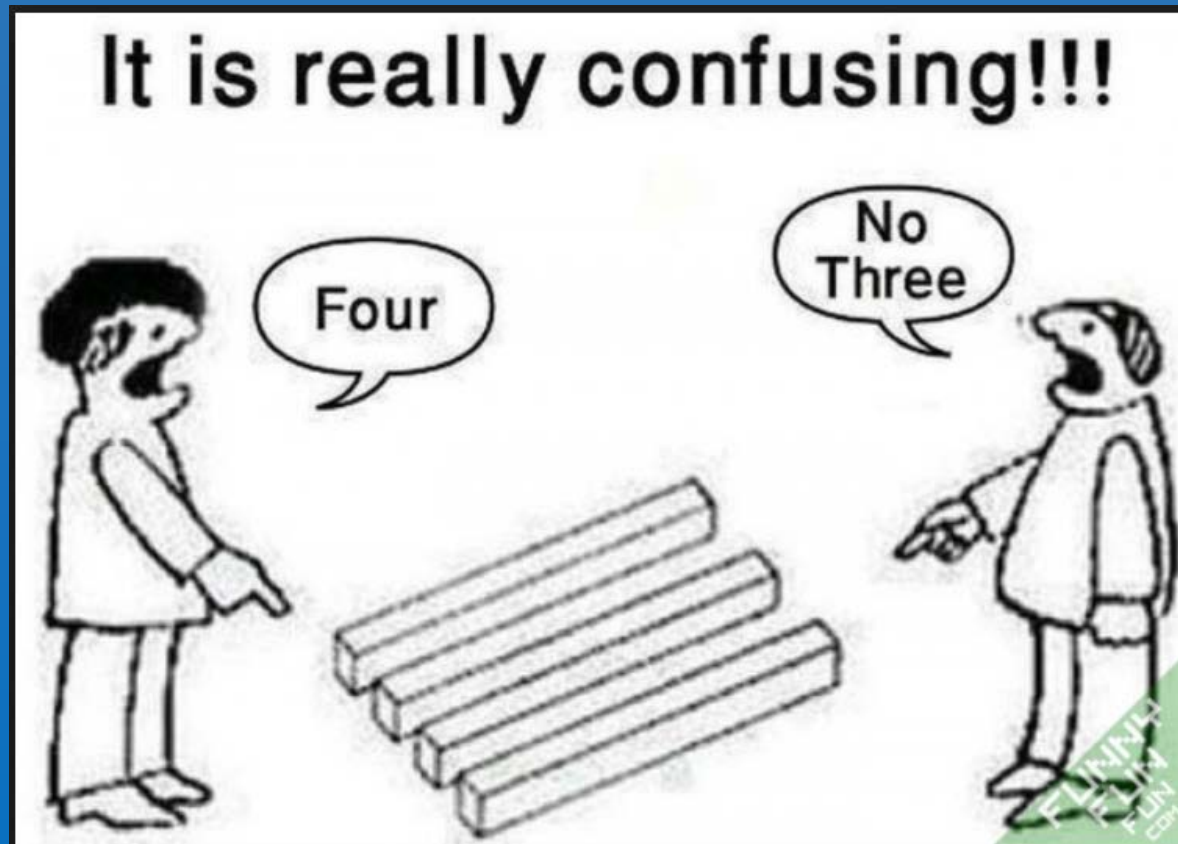
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State v. Williams, 129 Ohio St.3d 344, 2011-Ohio-3374, 952 N.E.2d 1108: The Supreme Court of Ohio Ruled that S.B. 10, as applied to defendants who committed sex offenses prior to its enactment, violates Section 28, Article II of the Ohio Constitution (Ohio's Retroactivity Clause).



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Sex Offender Registration
Confusion or Optical Illusion?





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- *When did the crime occur?*



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- *When did the crime occur?*
 - If the crime occurred before January 1, 2008, H.B. 180/S.B. 5 applies.



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- *When did the crime occur?*
 - If the crime occurred before January 1, 2008, H.B. 180/S.B. 5 applies.
 - It does not matter if your client has been sentenced after January 1, 2008.



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Has your client been indicted/convicted for failing to register?



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State v. Howard, 134 Ohio St.3d 467, 2012-Ohio-5738, 983 N.E.2d 341:



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Has your client been indicted/convicted for failing to register?

State v. Howard, 134 Ohio St.3d 467, 2012-Ohio-5738, 983 N.E.2d 341:

The amendments to R.C. 2950.99 (via S.B. 97) may not be applied retroactively to those who are registering in accordance with H.B. 180/S.B. 5.



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Former 2950.99—Penalties

- If no prior convictions for failing to register:
 - If the most serious sexually oriented offense that was the basis of failure under 2950.04-2950.06 was:
 - **Aggravated murder, murder, or felony of first, second, or third degree—guilty of a third-degree felony**
(2950.99(A)(1)(a)(i))
 - **Felony of the fourth or fifth degree, or a misdemeanor—guilty of a felony or a misdemeanor of the same degree**
(2950.99(A)(1)(a)(ii))

Current 2950.99—Penalties

- If no prior convictions for failing to register:
 - If the most serious sexually oriented offense that was the basis of failure under 2950.04-2950.06 was:
 - **Aggravated murder or murder—guilty of a first-degree felony**
(2950.99(A)(1)(a)(i))
 - **Felony of the first, second, third or fourth degree—guilty of a felony of the same degree as the most serious offense of basis for registration**
(2950.99(A)(1)(a)(ii))
 - **Fifth degree or misdemeanor—guilty of a fourth-degree felony**
(2950.99(A)(1)(a)(iii))



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- If there is a prior conviction for failure to register, notify address, etc.:
 - If the most serious sexually oriented offense that was the basis of failure under 2950.04-2950.06 was:
 - **Murder or a felony of the first, second, third, or fourth degree—guilty of a third-degree felony**
(2950.99(A)(1)(b)(i))

- If there is a prior conviction for failure to register, notify address, etc.:
 - If the most serious sexually oriented offense that was the basis of failure under 2950.04-2950.06 was:
 - **Aggravated murder or murder—guilty of a first-degree felony**
(2950.99(A)(1)(b)(i))



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| <ul style="list-style-type: none">▪ Felony of the fifth degree—guilty of a fourth-degree felony
(2950.99(A)(1)(b)(ii))▪ Misdemeanor of the first degree—guilty of a fifth-degree felony
(2950.99(A)(1)(b)(iii))▪ Misdemeanor other than first degree—guilty of a misdemeanor one degree higher than the most serious offense
(2950.99(A)(1)(b)(iv)) | <ul style="list-style-type: none">▪ Felony of first, second, or third degree—guilty of a felony of the same degree as the most serious offense of basis for registration
(2950.99(A)(1)(b)(ii))▪ Felony of the fourth degree or fifth degree—guilty of a third-degree felony
(2950.99(A)(1)(b)(iii))▪ Misdemeanor—guilty of a fourth-degree felony
(2950.99(A)(1)(b)(iv))▪ <u>If there is a prior conviction for failure to register, notify, etc., the sentence shall be at least a three-year definite prison term.</u> (2950.99(A)(2)(b)) |
|--|---|



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My client pleaded guilty to/was convicted of failing to register and received a heightened penalty. What can I do?



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- **Guilty Plea:** Motion to Withdraw Guilty Plea



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- **Guilty Plea:** Motion to Withdraw Guilty Plea
- **Trial:** State Habeas Petition (if client is imprisoned beyond the time of the penalty he or she should have received); or Motion to Vacate



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Out-of-State Registrants:



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Out-of-State Registrants:

H.B. 180/S.B. 5: R.C. 2950.09(A):

Offenders from other states who: (1) have committed or pleaded guilty to one or more sexually-oriented offenses; and (2) are required under those states' laws to register as sex offenders until their death and to verify their address on at least a quarterly basis each year, are automatically classified as sexual predators under Ohio law.



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Out-of-State Registrants:

H.B. 180/S.B. 5: R.C. 2950.09(F):

Out-of-state offenders who (1) **have committed a sexually-oriented offense**, (2) must register, as a result of that offense, as a sex offender until their death and verify their address on at least a quarterly basis each year, and (3) have automatically been classified as sexual predators under R.C. 2950.09(A) may petition the common pleas court where they reside for removal of the automatic classification. The trial court may enter a determination that an out-of-state offender is not a sexual predator in Ohio only if the out-of-state offender proves by clear and convincing evidence that the other state's lifetime registration and quarterly address-verification requirements are "not substantially similar to a classification as a sexual predator [in Ohio]* * *."



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The trial court may enter a determination that an out-of-state offender is not a sexual predator in Ohio only if the out-of-state offender proves by clear and convincing evidence that the other state's lifetime registration and quarterly address-verification requirements are "not substantially similar to a classification as a sexual predator [in Ohio]* * *."



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HERE'S HOW:



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- No case number exists for your client. So you must file a complaint for declaratory judgment (this is a case-initiating document).



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- No case number exists for your client. So you must file a complaint for declaratory judgment (this is a case-initiating document).
- Assert that the sexually-oriented offense in the other state is substantially equivalent to one of the offenses in R.C. 2950.01(D)(1)(a), (b), (c), or (d).



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- No case number exists for your client. So you must file a complaint for declaratory judgment (this is a case-initiating document).
- Assert that the sexually-oriented offense in the other state is substantially equivalent to one of the offenses in R.C. 2950.01(D)(1)(a), (b), (c), or (d).
- Establish, by clear and convincing evidence, that your client is not likely to commit a sexually-oriented offense in the future.



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Out-of-State Registrants:



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Out-of-State Registrants:

S.B. 10: R.C. 2950.15:

Offenders from other states who: (1) have a Tier I registration status upon entering Ohio;



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Out-of-State Registrants:

S.B. 10: R.C. 2950.15:

Offenders from other states who: (1) have a Tier I registration status upon entering Ohio; and (2) registered for 10 years



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Out-of-State Registrants:

S.B. 10: R.C. 2950.15:

Offenders from other states who: (1) have a Tier I registration status upon entering Ohio; and (2) registered for 10 years may ask the court of common pleas of the residing county to terminate their duty to comply with registration requirements.



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Out-of-State Registrants:

S.B. 10: R.C. 2950.15:

Offenders from other states who: (1) have a Tier I registration status upon entering Ohio; and (2) registered for 10 years may ask the court of common pleas of the residing county to terminate their duty to comply with registration requirements.

KEY DIFFERENCE:



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Out-of-State Registrants:

S.B. 10: R.C. 2950.15:

Offenders from other states who: (1) have a Tier I registration status upon entering Ohio; and (2) registered for 10 years may ask the court of common pleas of the residing county to terminate their duty to comply with registration requirements.

KEY DIFFERENCE: Individuals who were convicted of a sex offense in the State of Ohio, are Tier I registrants, and have been registering for 10 years, may also request registration termination.



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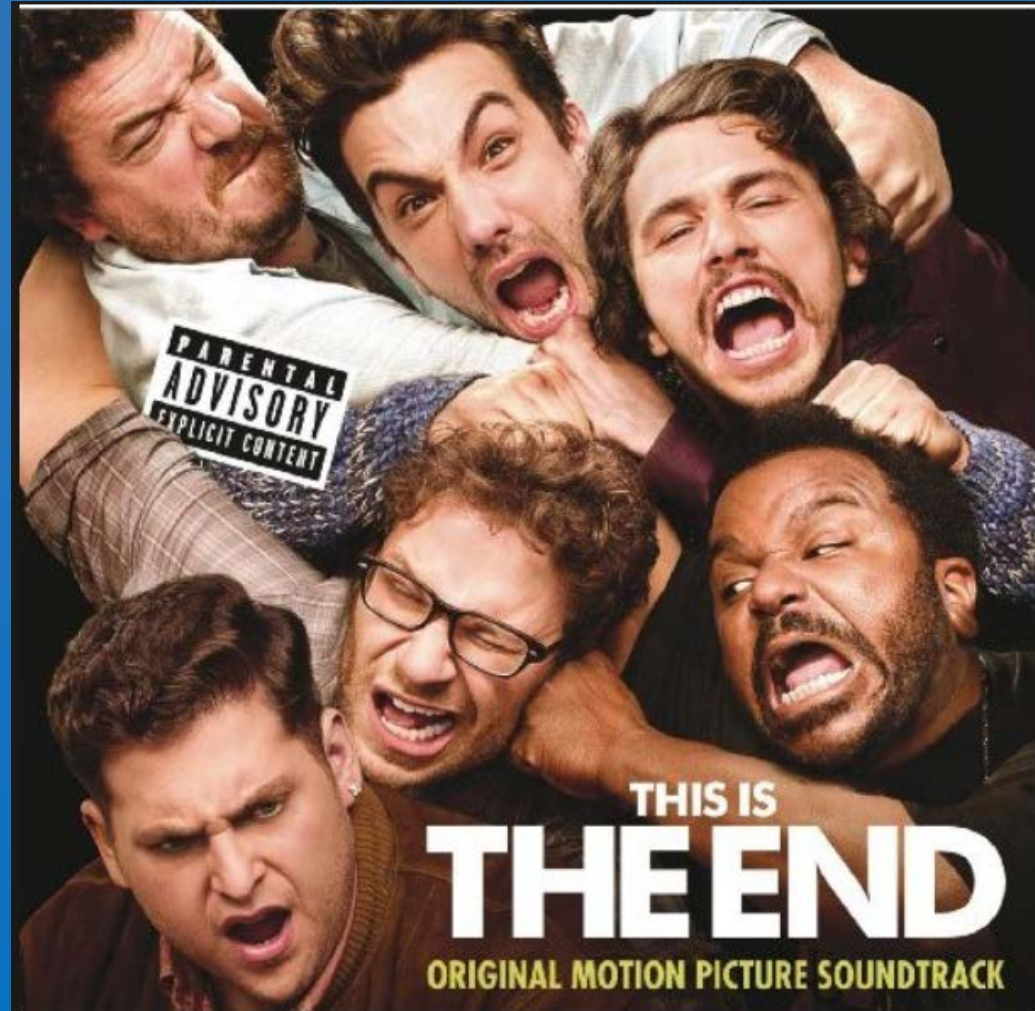
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