



# *ENACTMENT NEWS*

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## **Senate Bill 231 Violent Offender Database – “Sierah’s Law”**

On December 19, 2019, the Governor Kasich signed Senate Bill 231 (Sen. Randy Gardner) into law. The bill establishes a “violent offender” database. It passed the Ohio Senate by a vote of 31-2 on April 11, 2018, and the Ohio House of Representatives by a vote of 92-0 on December 5, 2018. It becomes effective 90 days after the governor signs it.

### **INCLUSION ON THE VIOLENT OFFENDER DATABASE**

Under the bill, the Bureau of Criminal Identification and Investigation is required to establish and maintain a database of offenders who have been convicted of or pleaded guilty to a charge of murder, aggravated murder, voluntary manslaughter, kidnapping, or F2 abduction (or a substantially equivalent out-of-state offense), or attempt, conspiracy, or complicity in committing one of those offenses.

It is presumed that these “violent offenders” are required to enroll in the database for a period of ten years. An offender may rebut that presumption by filing a motion with the sentencing court (or, for out-of-state offenders, with the court of common pleas in the county in which the offender resides) asserting that the offender was not the principal offender in the commission of the underlying offense, and requesting that the court not require the offender to enroll in the database. If the offender, by a preponderance of the evidence, proves that he or she was not the principal offender, the court may nevertheless require the offender to enroll in the database, or may relieve the offender of that obligation entirely. In making that determination, the court is to consider:

- Whether the offender has committed any prior offenses of violence, and whether those convictions indicate a propensity for violence,
- The results of any risk assessment conducted on the offender,
- The offender’s degree of culpability or involvement in the underlying offense, and
- The public interest and safety.

### **NOTICE**

The attorney general must prescribe a notice and form outlining the offender’s enrollment duties, if he or she is ultimately required to enroll. The sentencing court is required to provide this notice to the offender, and require the offender to sign a form stating that he or she has received and understands the notice. The court must then provide a copy of the signed form to the sheriff of the county where the offender intends to reside.

Before sentencing a “violent offender” (as defined in the bill), the court is required to inform the offender of his or her right to request relief from enrollment duties, the presumption and the process and criteria for rebutting it, as well as the possible outcome and effects thereof.

## **ENROLLMENT DUTIES OF VIOLENT OFFENDER**

If the offender who is required to enroll in the database is sentenced after the bill takes effect and the sentencing court does not sentence the offender to prison, jail, or other form of confinement, the offender must enroll in the database within ten days of sentencing. If, upon effective date of the bill, the offender is already serving time in prison, jail, or other confinement, or if, after the effective date of the bill, the offender is sentenced to prison, jail, or other confinement, the offender must enroll in the database within ten days of being released. Out-of-state offenders must begin enrolling within ten days after the offender becomes aware of the database and either resides in or occupies a dwelling in Ohio for more than three consecutive days, or resides in or occupies a dwelling for an aggregate period of fourteen or more days in a calendar year.

The offender must enroll once per year by personally appearing at the sheriff of the county in which he or she resides and filling out a form prescribed by the attorney general. If the offender recklessly fails to enroll, re-enroll, or notify the sheriff of a change of address, the offender is guilty of a fifth-degree felony. The bill provides that this offense is not an offense of violence for purposes of TCAP.

## **EXTENSION OF ENROLLMENT DUTIES**

For all offenders required to enroll in the database, those enrollment requirements expire after ten years. That ten-year period may be extended if, upon motion by the prosecutor, the court finds that the offender, during that enrollment period, has violated a term or condition of the sanction imposed for the underlying offense, or has committed another felony or any misdemeanor offense of violence. If the court find that this has occurred, the court must issue an order extending the offender's enrollment requirements indefinitely.

If the court indefinitely extends the offender's duty to enroll, the offender may file a motion requesting that the extended period be terminated. The offender may file such a motion at any time during the extended period, but may not file more than one motion in any five-year period. Upon the filing of the motion, the court shall set a tentative hearing date not later than 90 days after the filing, although the date can be later if good cause exists. The court also shall forward a copy of the motion and its supporting documentation to the court's probation department or another appropriate agency to investigate the motion's merits. That department or agency is to submit a written report detailing its investigation to the court within 60 days, and the court shall forward that report to the prosecutor, who may file an objection to the offender's motion. If the prosecutor does not object, the court may, without a hearing, issue an order terminating the offender's extended enrollment duties.

## **RESTRICTION OF ACCESS TO DATABASE INFORMATION**

While the bill provides that the database of information collected on violent offenders is not a public record, it allows that information provided to the sheriff by the offender at the time of enrollment or re-enrollment is a public record, with some exceptions. If the offender fears for his or her safety due to certain information being made available to the public, the offender may file a motion in the common pleas court where he or she resides, requesting an order to ban or restrict access to that information. The motion must expressly state the reason the offender fears for his or her safety, and must include information and materials in support. The court may rule on the motion with or without a hearing. If the court grants the motion, the information is no longer a public record, and the court must so notify the sheriff.