

## SENATE BILL 231 – VIOLENT OFFENDER DATABASE

### “Sierah’s Law”

Senate Bill 231 – Sierah’s Law – creates a statewide “Violent Offender Database” (VOD) and institutes a presumptive ten year duty of enrollment for offenders convicted of specified violent offenses upon their release from confinement. It also establishes procedures by which offenders may overcome the enrollment presumption through proof they were not the principal offender in the offense.

Qualifying offenders must provide information to the sheriff of their county of residence at the time of enrollment, must re-enroll annually, and must notify the sheriff of any change of address within 3 days. Prosecutors may file to extend an offender’s enrollment duties beyond the ten year period in specified circumstances.

The Violent Offender Database will be a law enforcement resource maintained by BCI with offender information provided from local sheriffs. Information about individual offenders will be only be available to the public at their local sheriff’s office. Offenders who fear for their safety may request their information be made private through court filing under specific circumstances outlined in [R.C. 2903.43(F)(3)(c)].

SB 231 takes effect March 20, 2019 and effects offenders sentenced on or after the effective date, those serving a term of confinement for a qualifying offense on that date, and qualifying out of state offenders living in Ohio.

#### WHO QUALIFIES?

- **Qualifying offenses** – [\[R.C. 2903.41 \(A\)\(1\)\(a-b\)\]](#) :
  - **R.C. 2903.01** – Aggravated Murder
  - **R.C. 2903.02** - Murder
  - **R.C. 2903.03** – Voluntary Manslaughter
  - **R.C. 2905.01** – Kidnapping
  - **R.C. 2905.02** – Abduction (as a 2<sup>nd</sup> degree felony)
  - **Any attempt, conspiracy, or complicity conviction for any of the above offenses.**
- **Qualifying Offenders**
  - Individuals convicted of **OR** pleading guilty to the listed offenses after March 20, 2019.
  - Offenders serving a term of imprisonment or other confinement for one of the listed offenses on March 20, 2019.
  - Individuals with out-of-state convictions for same or substantially similar violations who are aware of the existence of the database.

#### ENROLLMENT DUTIES

- Offenders who are subject to VOD duties must enroll in person at the sheriff’s office in their county of residence, re-enroll annually, and provide notice of any change of address within 3 days.
- These duties being upon release from confinement and last for 10 years. That period may be extended upon motion of the prosecutor if the defendant violates a condition of supervision or commits a new felony or any misdemeanor offense of violence.
- Violations of VOD duties are felonies of the fifth degree under [\[R.C. 2903.43\(I\)\]](#)

#### NOTICE REQUIREMENTS

- The Attorney General will provide a notice form for courts to provide to qualifying offenders. Much like the Sex Offender registry, the offender must sign this form acknowledging their duties to enroll and are given a copy. The court must provide a copy of the signed form to the sheriff in the offender’s county of residence.

## REBUTTAL OF PRESUMPTION OF DUTY TO ENROLL

- **QUALIFYING OFFENDERS AWAITING SENTENCING:**

Courts **MUST** notify qualifying offenders before sentencing of “the presumption [of duty to enroll], of the offender’s right to file a motion to rebut the presumption, of the procedure and criteria for rebutting the presumption, and of the effect of a rebuttal and the post-rebuttal hearing procedures and possible outcomes.” [R.C. 2903.42(A)(1)(a)]. The motion must be filed before or at the time of sentencing or the offender will be required to enroll.

- **QUALIFYING OFFENDERS SERVING A TERM OF CONFINEMENT**

Offenders will be notified of the presumption of duty to enroll and their rights by the Department of Rehabilitation and Corrections. They may file their motion in the court in which they were sentenced for the qualifying offense. Failure to file the motion prior to their release results in the offender being required to enroll in the database upon release. The statute does not specify if these offenders are entitled to a hearing. [R.C. 2903.42(A)(1)(b)]

- **QUALIFYING OFFENDERS WITH OUT-OF-STATE CONVICTIONS** [\[R.C. 2903.421\]](#)

Offender with out of state convictions for qualifying offenses who are aware of the database are required to enroll. They may file their motion for relief from enrollment duties in the common pleas court in their county of residence.

- **OFFENDERS MOTIONS FOR RELIEF**

The motion for relief from VOD duties must assert that the offender was not the principal offender in commission of the offense and request the court not require the offender to enroll. The offender has the burden of proving by a preponderance of the evidence that they were not the principal offender. If the court finds they have met that burden, the presumption of duty to enroll is overcome and the court “shall continue the hearing” to consider if the offender should still be required to enroll. In making that determination the court is to consider the following factors under [\[R.C. 2903.42\(A\)\(4\)\(a\)\(i-iv\)\]](#):

- Whether the offender has committed any prior offenses of violence and whether those priors indicate a propensity for violence
- The results of a risk assessment tool as per [\[R.C. 5120.114\]](#)
- The offender’s degree of culpability or involvement in the underlying offense
- The public interest and safety

### **A NOTE ON “PRINCIPAL OFFENDER”**

The term “principal offender” is not defined by the bill. The following definition is taken from the Ohio Jury Instructions CR 503.01 regarding Aggravated Murder and may provide guidance.

(N) **PRINCIPAL OFFENDER.** In order to find that the defendant was the **PRINCIPAL OFFENDER** in the aggravated murder, you must find that he/she (was the actual killer) (personally performed every act constituting the offense charged).

**QUESTIONS? CONCERNS? CONTACT SENTENCING COMMISSION STAFF AT (614)387-9310**