

**IN THE
SUPREME COURT OF OHIO**

IN RE D. R. : NO. 2021-0934
A Minor-Appellee : On Appeal from the Hamilton County
 : Court of Appeals, First Appellate
 : District
 : Court of Appeals
 : Case Number C-1900594
 :

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STATEMENT OF THE FACTS

D.R. was almost 17 years-old on December 9, 2017, when he engaged in sexual contact/conduct with a 12 year-old family friend. (T. 4/5/18 p. 5-6) The 12 year-old girl was at a sleep over with other girls at D.R.'s residence. They were watching a movie when D.R. put his hands in her pants. Another girl witnessed the conduct and together the two young girls immediately told D.R. to stop. Later in the evening, D.R. approached the same victim again, put his hands in her pants, but "this time he went further." After the second attack, the 12 year-old was so scared that she just laid there. (T. 8/17/18 p. 9-14)

Complaints charging D.R. with two rapes, first-degree felonies if committed by an adult, were filed in the Hamilton County Juvenile Court on February 22, 2018. (T.d. 1) D.R. reached an agreement with the State of Ohio to dismiss one rape charge in exchange for his admission in the other charge to a reduced gross sexual imposition of a victim under 13, a felony of the third-degree if committed by an adult. (T.d. 12; T.d. 13) The disposition and sex offender classification hearings took place on August 17, 2018. D.R. was committed to the permanent custody of the Department of Youth Services until age 21. The commitment was suspended and D.R. was placed on probation. He was further ordered to complete the Lighthouse Youth Services Sex Offender Program. (T.d. 25) D.R. was subject to an initial mandatory classification pursuant to R.C. 2152.83(A)(1) because he was 16 years old at the time of the offense. Despite the State of Ohio's request that D.R. be initially classified as a Tier II juvenile-sex-offender registrant, the juvenile court classified him as a Tier I juvenile-sex-offender registrant. (T. 8/17/18 p. 7-8; T.d. 29)

The completion of disposition hearing pursuant to R.C. 2152.84 occurred less than a year later on June 7, 2019 and by that time D.R. was 18 ½ years old. D.R. acknowledged that pursuant to R.C. 2152.84(A)(2)(b), he was not yet eligible to have his classification removed due

to his age at the time of the offense. He argued that the statute was in violation of his equal protection and substantive due-process rights. (T. 6/7/19 p. 8-11) D.R. also presented a risk assessment from Dr. Carla Dryer and the discharge transition summary from Lighthouse Youth Services. (T. 6/7/19 p. 3) In addition to the application of R.C. 2152.84 (A)(2)(b), the State of Ohio submitted that the Tier I classification should continue because the reports offered by D.R. revealed concern that he still had access to pornography during his period of probation. (T. 6/7/19 p. 17) The magistrate replaced official probation with non-reporting probation and continued the Tier I classification. (T.d. 40)

D.R.'s objection to the magistrate's decision was ultimately heard by a visiting juvenile court judge. The judge terminated probation and otherwise adopted the decision of the magistrate as to the continuation of the Tier I classification. The judge's decision further "invites an appeal" as to the "narrow question" regarding due process of treating 16 and 17 year-old sex offenders differently "even when applying *In re M.I.* [2017-Ohio-1524, 88 N.E.3d 1276 (1st Dist.)] precedent." (T.d. 64)

On direct appeal D.R. then claimed that the continuation of his Tier I classification under R.C. 2152.84(A)(2)(b) violated the Due Process and Equal Protection Clauses of the state and federal constitutions, and amounted to cruel and unusual punishment. The First District Court of Appeals overruled D.R.'s equal protection argument on the authority of *In re M.I.*, 2017-Ohio-1524, 88 N.E.3d 1276 (1st Dist.), and did not reach his substantive due process and cruel and unusual punishment arguments. It found that D.R.'s continued classification as a Tier I juvenile-sex-offender registrant violated his procedural due-process rights and "remanded for a new completion-of-disposition hearing under R.C. 2152.84, during which the juvenile court may

exercise its discretion to continue D.R.'s classification as a Tier I juvenile-offender registrant or declassify him." *In re D.R.*, 2021-Ohio-1797, 173 N.E.3d 103, ¶17 (1st Dist.).

The State of Ohio appealed and this Court accepted the proposition of law that the process provided by the legislature in R.C. 2152.84 complies with state and federal due process and is fundamentally fair.

ARGUMENT IN SUPPORT OF PROPOSITION OF LAW

Proposition of Law No. 1: The process provided by the legislature in R.C. 2152.84 complies with state and federal due process and is fundamentally fair.

A. Presumption of Constitutionality

The analysis of a statute's constitutionality "begin[s] with the premise that statutes are presumed constitutional." *State v. Noling*, 149 Ohio St.3d 327, 2016-Ohio-8252, 75 N.E.3d 141, ¶9, citing R.C. 1.47. Legislative enactments are entitled to a strong presumption of constitutionality. See *State v. Williams*, 126 Ohio St.3d 65, 2010-Ohio-2453, 930 N.E.2d 770; *State v. Collier*, 62 Ohio St.3d 267, 581 N.E.2d 552 (1991); *State v. Young*, 37 Ohio St.3d 249, 525 N.E.2d 1363 (1988). This strong presumption of constitutionality is rebuttable only by proving the existence of a constitutional infirmity "beyond a reasonable doubt." *State v. Gill*, 63 Ohio St.3d 53, 584 N.E.2d 1200 (1992). "[B]efore a court may declare the statute unconstitutional, it must appear beyond a reasonable doubt that the legislation and constitutional provision are clearly incapable of coexisting." *Id.* at 55, citing *State ex rel. Dickman v. Defenbacher*, 164 Ohio St. 142, 128 N.E.2d 59 (1955), paragraph one of the syllabus. When challenged as unconstitutional, a court must apply all presumptions and rules of construction so

as to uphold the statute if at all possible. *State v. Dorso*, 4 Ohio St.3d 60, 446 N.E.2d 449 (1983).

In the present case, the lower court did not give any consideration to the presumption of constitutionality.

B. Facial and As-Applied Challenges

Furthermore, constitutional review of a statute may proceed as a facial challenge to the statute as a whole or as applied to a specific set of facts. *Arbino v. Johnson & Johnson*, 116 Ohio St.3d 468, 2007-Ohio-6948, 880 N.E.2d 420, ¶26; *Harrold v. Collier*, 107 Ohio St.3d 44, 2005-Ohio-5334, 836 N.E.2d 1165. In his direct appeal D.R. presented both facial and as-applied challenges. The court of appeals stated, “We hold that D.R.’s continued classification as a Tier I juvenile-offender registrant violated his procedural due-process rights.” *In re D.R.*, 2021-Ohio-1797, 173 N.E.3d 103, (1st Dist.). Although the lower court specifically held that R.C. 2152.84 (A)(2)(b) violated D.R.’s due-process rights as-applied, there is clearly a facial impact as to all Tier I juvenile-offender-registrants who were 16 or 17 at the time they committed a sexually oriented offense.

C. Due Process and Due Course of Law

The federal constitutional Due Process Clause states: “nor shall any State deprive any person of life, liberty, or property, without due process of law.” Fourteenth Amendment to the U.S. Constitution. The Ohio Constitution provides: “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.” Article I, Section 16, Ohio Constitution. Despite the differences in “due process of law” and “due course of law,” these constitutional protections have historically been treated by this Court as equivalent. *Stolz v. J &*

B Steel Erectors, Inc., 155 Ohio St.3d 567, 2018-Ohio-5088, 122 N.E.3d 1228, ¶ 12, citing *Adler v. Whitbeck*, 44 Ohio St. 539, 568-569, 9 N.E. 672 (1887).

“The fundamental requirement of due process is the opportunity to be heard ‘at a meaningful time and in a meaningful manner.’” *Mathews v. Eldridge*, 424 U.S. 319, 333, 96 S.Ct. 893 (1976), quoting *Armstrong v. Manzo*, 380 U.S. 545, 85 S.Ct. 1187 (1965). Although D.R. alleged violations of both the substantive and procedural components associated with due process, the court of appeals identified its analysis and holding as solely procedural. *In re D.R.*, at ¶16. Procedural due process “concerns the adequacy of the procedures employed in a government action that deprives a person of life, liberty, or property.” *Ferguson v. State*, 151 Ohio St.3d 265, 2017-Ohio-7844, 87 N.E.3d 1250, ¶42.

1. Due Process for Juveniles

For juveniles, this Court has “applied a fundamental-fairness standard in addressing due process concerns, holding that a balanced approach is required to preserve the special nature of the juvenile process.” *In re C.P.*, 131 Ohio St.3d 513, 2012-Ohio-1446, 967 N.E.2d 729, ¶73, citing *State v. D.H.*, 120 Ohio St.3d 540, 2009-Ohio-9, 901 N.E.2d 209. “The Due Process Clause is applicable in juvenile proceedings, and although its requirements are inexact, fundamental fairness is the overarching concern.” *In re D.C.*, 149 N.E.3d 989, 2019-Ohio-4860, ¶35 (1st Dist.), citing *State v. D.H.*, 120 Ohio St.3d 540, 2009-Ohio-9, 901 N.E.2d 209. “While [the Ohio Supreme Court has] not explicitly articulated what ‘fundamental fairness’ means in a juvenile proceeding, ‘[a] court’s task is to ascertain what process is due in a given case * * * while being true to the core concept of due process in a juvenile case—to ensure orderliness and fairness.’” *State v. Aalim*, 150 Ohio St.3d 489, 2017-Ohio-2956, 83 N.E.3d 883, ¶23, quoting *In re C.S.*, 115 Ohio St.3d 267, 2007-Ohio-4919, 874 N.E.2d 1177, ¶81. Fundamental fairness is

discovered “in a particular situation by first considering any relevant precedents and then by assessing the several interests that are at stake.” *In re C.S.* at ¶80.

2. Juvenile Dispositions

For juveniles who are adjudicated delinquent, the overriding purposes of dispositions “are to provide for the care, protection, and mental and physical development of children * * *, protect the public interest and safety, hold the offender accountable for the offender's actions, restore the victim, and rehabilitate the offender[,]” and “[t]hese purposes shall be achieved by a system of graduated sanctions and services.” R.C. 2152.01(A). The classification of juveniles is “consistent with the juvenile court’s exercise of its discretion in its rehabilitative role and with the statutory scheme.” *In re D.S.*, 146 Ohio St.3d 182, 2016-Ohio-1027, 54 N.E.3d 1184, ¶26. The Ohio General Assembly specifically declared its intent to protect the public by including “certain delinquent children who have committed sexually oriented offenses” in the statutory scheme for registration. R.C. 2950.02 (B).

D. Classification of Juveniles

In 2002 the Ohio General Assembly enacted the first legislation extending classification, registration, and notification to certain juveniles adjudicated delinquent for sexual offenses. 2001 Am.Sub.S.B. No. 3. From its inception, this statutory compilation was customized around the unique goals of the juvenile justice system. Rather than simply amending R.C. Chapter 2950, the statutory scheme applicable to adult offenders, to include juveniles, the legislature provided multiple layers within R.C. Chapter 2152 for juvenile courts to affix the most appropriate level of classification to certain juvenile sex offenders. In order to work within the juvenile system, the General Assembly expanded the exclusive original jurisdiction of juvenile courts to conduct the hearings necessary to affix, review, and modify the appropriate

classification level for juveniles fourteen years of age or older adjudicated delinquent for committing certain sexually oriented offenses. R.C. 2151.23(A)(15); R.C. 2152.191; R.C. 2950.01(M).

In 2008, the General Assembly overhauled Ohio's statutory scheme for both adult and juvenile registration to comply with the federal Adam Walsh Child Protection and Safety Act (AWA) and its subsection, the Sex Offender Registration and Notification Act (SORNA). 2007 Am.Sub.S.B. No. 10; 42 U.S. §§ 16901, et seq. In amending the statutory provisions for the classification of juveniles, the General Assembly left intact the jurisdictional aspects as well as the discretionary process applicable to juveniles in R.C. 2152.83(B), and the multiple opportunities in R.C. 2152.84 and R.C. 2152.85 for the juvenile court to review its classifications. *In re D.S.*, 146 Ohio St.3d 182, 2016-Ohio-1027, 54 N.E.3d 1184, ¶¶35-36.

The initial statutory process for classification occurs at or during disposition and is set forth in R.C. 2152.83. The second step in the classification process as set forth in R.C. 2152.84 provides for a mandatory review of the initial classification "upon completion of the disposition." The order issued subsequent to this completion of disposition review hearing "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." R.C. 2152.84(D). The third potential step in the classification process is covered by R.C. 2152.85 and it allows all classified juvenile offender registrants to petition the juvenile court after specific periods of time for a lower classification level or termination of the classification.

1. R.C. 2152.84 Completion of Disposition Review Hearing

For all classified juveniles, R.C. 2152.84 requires a review hearing "upon completion of the disposition." This Court recently recognized the purpose of this "completion-of-disposition

hearing” in *In re R.B.*, 162 Ohio St.3d 281, 2020-Ohio-5476, 165 N.E.3d 288, ¶10. At this mandatory hearing the juvenile court must: (1) “review the effectiveness of the disposition and of any treatment provided for the child,” (2) “determine the risks that the child might re-offend,” (3) “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 (4) “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.” R.C. 2152.84 (A)(1).

At the mandatory completion-of-disposition review hearing and after consideration of all relevant factors, the juvenile court has discretion to maintain, modify, or terminate the initial classification. R.C. 2152.84(A)(2). However, for those juveniles who were initially classified pursuant to R.C. 2152.82 (all juveniles at least age 14 with a prior adjudication for a sexual offense) or R.C. 2152.83(A) (those juveniles like D.R. who committed a sexual offense at age 16 or 17), the juvenile court may not yet terminate the duty to register. R.C. 2152.84(A)(2)(b).

2. R.C. 2152.85 Petition for Reclassification or Declassification

All classified juvenile-offender-registrants have the ability to petition to have their classifications modified or removed under R.C. 2152.85. This Court recently provided the following summary of this petition process:

Specifically, a juvenile-sex-offender registrant may petition the juvenile court, beginning at three years following the classification order, to request reclassification to a lower tier or to terminate the registration requirement altogether. R.C. 2152.85(A) and (B). After the court has ruled on the initial petition, the statute permits additional opportunities for review, first after another three-year period and then every five years thereafter. R.C. 2152.85(B). * * * Thus, the juvenile court judge maintains discretion throughout the course of the offender's registration period to consider whether to continue, terminate, or modify the juvenile's classification.

State v. Buttery, 162 Ohio St.3d 10, 2020-Ohio-2998, 164 N.E.3d 294, ¶ 25, quoting *In re D.S.* at ¶ 36.

E. D.R.'s Case

The First Appellate District isolated R.C. 2152.84(A)(2)(b) from the rest of the statutory scheme to find it fundamentally unfair because the juvenile court had no discretion to terminate D.R.'s classification at the completion of disposition review hearing. Since D.R. was 16 years of age at the time he committed the sexually oriented offense for which he was adjudicated, at the initial classification hearing the juvenile court was required to classify him as a juvenile offender registrant but had discretion as to which tier. R.C. 2152.83(A)(1)(b). Upon the completion of D.R.'s disposition, the juvenile court held the required review hearing pursuant to R.C. 2152.84(A). The juvenile court reviewed D.R.'s progress and terminated probation. The juvenile court, however, could not pursuant to R.C. 2152.84(A)(2)(b) terminate D.R.'s Tier 1 classification because he was 16 at the time of the offense. The court of appeals determined that R.C. 2152.84(A)(2)(b) rendered D.R.'s completion of disposition review hearing meaningless and therefore violated his procedural due process rights under the Fourteenth Amendment to the U.S. Constitution and Article I, Section 16 of the Ohio Constitution. The reviewing court did not consider that pursuant to R.C. 2152.85 (B)(1), the juvenile court may still terminate D.R.'s Tier I classification three years after the completion of disposition hearing.

1. *In re C.P.* not applicable

The exclusion from termination provided in R.C. 2152.84(A)(2)(b) is completely unlike R.C. 2152.86—the statutory scheme for automatic, lifelong registration and notification requirements—found unconstitutional by this Court in *In re C.P.*, 131 Ohio St.3d 513, 2012-Ohio-1446, 967 N.E.2d 729. This Court's analysis and holding in *In re C.P.* is a narrow one:

To the extent that it imposes automatic, lifelong registration and notification requirements on juvenile sex offenders tried within the juvenile system, R.C. 2152.86 violates the constitutional prohibition against cruel and unusual punishment contained in the Eighth Amendment to the United States Constitution and the Ohio Constitution, Article I, Section 9, and the Due Process Clause of the Fourteenth Amendment to the United States Constitution and the Ohio Constitution, Article I, Section 16.

Id. at syllabus.

Unlike the R.C. 2152.84 completion-of-disposition review hearing, R.C. 2152.86 removed all discretion from the juvenile court and automatically classified certain juveniles as Tier III offenders which carried a lifetime duty to register, verification every ninety days, community notification, and additional registration obligations. For juveniles like D.R., the juvenile court still has discretion as to which tier to apply (R.C. 2152.83), a completion-of-disposition review hearing must take place (R.C. 2152.84), and the juvenile court has discretion to remove the classification in three years (R.C. 2152.85).

2. Goal of Juvenile Dispositions is Respected and Preserved

Although R.C. 2152.84(A)(2)(b) does not allow the registration duty to be entirely removed at the completion of disposition review hearing, the overall goal of the juvenile justice system is satisfied in that the graduated approach to disposition is preserved. The procedural posture of D.R.'s case provides a good example of how the juvenile court is able to maximize its resources to provide a disposition that both protects the community and gives the juvenile the best chance to be successful. At the time that D.R. committed the sexually oriented offenses, he was just thirteen months shy of adulthood. During the course of his case, D.R. was under a period of house arrest, received intensive out-patient treatment, was on a period of probation and non-reporting probation, and probation was terminated but he continues to register as a Tier I juvenile-sex-offender-registrant.

In R.C. 2152.84, the Ohio General Assembly provided a mechanism by which older juvenile offenders could still be maintained in the juvenile system. These older juveniles are able to remain under the watchful eye of the juvenile justice system for an abbreviated period of time even as the disposition is gradually reduced. The process provided in R.C. 2152.84 is fundamentally fair and the First Appellate District was wrong to find that it violates state and federal procedural due process protections. At the completion of his disposition D.R. was provided a hearing where he was able to set forth by way of argument and evidence the progress he made throughout the various stages of his disposition. In fact, after reviewing the disposition the juvenile court terminated D.R.'s probation which it has the statutory discretion to do. The R.C. 2152.84 hearing was therefore quite meaningful. Furthermore, the record of D.R.'s progress has been made and is available for him to use when he is eligible to petition the juvenile court for termination of his Tier I classification under R.C. 2152.85

3. Procedural Due Process does require a specific result.

The State of Ohio respectfully defers to the propositions of law set forth by the Amicus Curiae in their briefs. As it stands, the court of appeals' decision in the present case interferes with the goal of the legislature to provide a specific registration period for older juvenile sex offenders. The Ohio General Assembly provided a mandatory period for 16 and 17 year-old sex offenders to be classified and registered. R.C. 2152.84(A)(2)(b). The lower court agreed with D.R.'s contention that for juveniles like him, who were 16 or 17 years old at the time of the offense, their constitutional due-process rights are denied because R.C. 2152.84(A)(2)(b) does not provide for removal of the classification at the completion of disposition. D.R. specifically argued that juveniles have a substantive due process right to have a sex offender classification removed at the completion of disposition, and that automatic continued classification is

fundamentally unfair. There is, however, no due-process right for removal of the classification at the completion of disposition. “The imposition of juvenile-offender-registrant status under R.C. 2152.82 or 2152.83(B) with corresponding registration and notification requirements that continue beyond the offender’s reaching age 18 or 21 does not violate the offender’s due-process rights.” *In re D.S.* at paragraph three of the syllabus.

The court of appeals declared the process provided in R.C. 2152.84 fundamentally unfair because the classification could not be removed at the conclusion of the hearing. This declaration was made without consideration of next step in the process—a petition under R.C. 2152.85. Delaying the juvenile court’s ability to remove the classification for three years does not undercut its discretion but rather ensures that older juvenile sex offenders are subject to a meaningful period of registration before the classification may be removed.

CONCLUSION

The Ohio General Assembly specifically provided a mandatory classification for the oldest sexual offenders under the jurisdiction of the juvenile court. While 16 and 17 year-old juvenile sex offenders classified as Tier I registrants may not have their classifications terminated at the R.C. 2152.84 completion of disposition hearing, the process is fundamentally fair. The juvenile court is still required to hold a completion of disposition hearing under R.C. 2152.84 to review the disposition and classification status. At that hearing, those juvenile offenders are able to make a record as to the effectiveness of the disposition/classification just as D.R. did in his case. After three years, those juveniles are then afforded the opportunity under R.C. 2152.85 to petition the juvenile court for removal of the Tier I classification.

For these reasons, this Court must reverse the judgment of the court of appeals.

Respectfully,

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Ohio

CERTIFICATE OF SERVICE

I hereby certify that I have sent a copy of the foregoing Merit Brief, by United States mail, addressed to Jessica Moss (Counsel of Record), Assistant Public Defender, 125 East Court Street, 9th Floor, Cincinnati, Ohio 45202; Steven L. Taylor, Legal Research & Staff Counsel, Ohio Prosecuting Attorney Association, 196 East State Street, Ste. 200, Columbus, Ohio 43215, and Dave Yost, Ohio Attorney General, Benjamin M. Flowers, Solicitor General, Samuel C. Peterson, Deputy Solicitor General, 30 East Broad Street, 17th Fl., Columbus, Ohio 43215, this 6th day of December, 2021.

/s Paula E. Adams

Paula E. Adams, 0069036P
Assistant Prosecuting Attorney

IN THE
SUPREME COURT OF OHIO



IN RE: D.R.	:	NO.
A Minor-Appellee	:	On Appeal from the Hamilton County Court of Appeals, First Appellate District
	:	Court of Appeals Case Number C-1900594

NOTICE OF APPEAL OF APPELLANT

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COUNSEL FOR APPELLEE, D.R.

CLERK OF COURT,
HAMILTON COUNTY,
COMMON PLEAS
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IN THE
SUPREME COURT OF OHIO

IN RE: D.R. : NO.
A Minor-Appellee :
 :
 : NOTICE OF APPEAL OF
 : APPELLANT, STATE OF OHIO
 :

Appellant, State of Ohio, hereby gives notice of appeal to the Supreme Court of Ohio from the judgment of the Hamilton County Court of Appeals, First Appellate District, entered in Court of Appeals case number C-1900594 rendered on May 26, 2021 and the entry denying reconsideration on June 25, 2021. This case is of public or great general interest and involves a substantial constitutional question.

Respectfully submitted,

Joseph T. Deters
Prosecuting Attorney

/s/ Paula E. Adams

Paula E. Adams, 0069036P
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Attorneys for Appellant

CERTIFICATE OF SERVICE

I hereby certify that I have sent a copy of the foregoing Notice of Appeal of Appellant, State of Ohio, via email, addressed to Jessica Moss, Assistant Public Defender, at JMoss@hamiltoncountypd.org, counsel of record, and regular mail to Timothy Young, Ohio Public Defender, 250 E. Broad Street, Suite 1400, Columbus, Ohio 43215-2998, this 29th day of July, 2021.

/s/ Paula E. Adams

Paula E. Adams, 0069036P

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

IN RE: D.R.

: APPEAL NO. C-190594
: TRIAL NO. 18-901Z

ENTERED
MAY 26 2021

OPINION.

PRESENTED TO THE CLERK
OF COURTS FOR FILING

Appeal From: Hamilton County Juvenile Court

MAY 26 2021

Judgment Appealed From Is: Reversed and Cause Remanded

COURT OF APPEALS

Date of Judgment Entry on Appeal: May 26, 2021

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 *Jessica Moss*, Assistant
Public Defender, for Defendant-Appellant D.R.

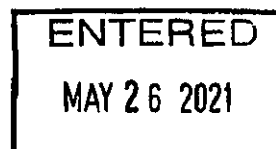
CROUSE, Judge.

{¶1} D.R. has appealed the judgment of the juvenile court continuing his classification as a Tier I juvenile-offender registrant under Ohio's version of the Adam Walsh Act. We hold that D.R.'s continued classification as a Tier I juvenile-offender registrant violated his procedural due-process rights. Therefore, we reverse the juvenile court's order continuing D.R.'s Tier I classification and remand this cause for a new completion-of-disposition hearing under R.C. 2152.84, during which the juvenile court may exercise its discretion to continue D.R.'s classification as a Tier I juvenile-offender registrant or declassify him.

I. Procedural Background

{¶2} On April 5, 2018, D.R. admitted in juvenile court to an act which, if committed by an adult, would have constituted gross sexual imposition against a victim under the age of 13. D.R. was 16 at the time of the offense; the victim was a 12-year-old friend. D.R. 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 Lighthouse Youth Services Sex Offender Program. Because D.R. was 16 at the time of the offense, the juvenile court was required to classify him as a juvenile-offender registrant under R.C. 2152.83. On August 23, 2018, the juvenile court classified D.R. as a Tier I juvenile-offender registrant.

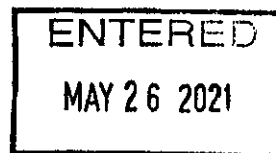
{¶3} Pursuant to R.C. 2152.84, the juvenile court magistrate held a completion-of-disposition hearing on June 7, 2019. D.R. raised constitutional challenges to R.C. 2152.83 and 2152.84, which the magistrate overruled. The magistrate noted in her decision that the court had no discretion to declassify D.R. because he was 16 at the time of his offense, and therefore, D.R.'s "classification status will remain a Tier I." After continuing D.R.'s Tier I classification, the



magistrate stated in her decision, "Additionally, the Court notes that [D.R.] has successfully completed all conditions imposed upon him by this Court. He has not been convicted of any subsequent offense. He is successfully completing a period of probation; and he has successfully completed an appropriate sex offender treatment program. He is also enrolled in college. Thus, the Court terminates the juvenile's period of probation." D.R. filed objections to the magistrate's decision, which the juvenile court judge overruled. The juvenile court adopted the magistrate's decision as the order of the court, but the court stated that D.R.'s due-process argument had some merit as it pertained to the mandatory classification of 16- and 17-year-old offenders. The juvenile court invited D.R. to raise his due-process argument on appeal. As the juvenile court's initial entry of September 17, 2019, failed to state that the court had continued the Tier I classification, the court entered an order on October 4, 2019, nunc pro tunc to September 17, 2019, stating that the Tier I classification was continued. D.R. has appealed.

II. Analysis

{¶4} R.C. 2152.83 treats juvenile sex offenders differently with respect to classification as juvenile-offender registrants based on their ages at the time of their offenses. A child who was 13 or younger at the time of his offense is not subject to sex-offender classification. R.C. 2152.83(A)(1) and (B)(2). A 14- or 15-year-old offender is subject to discretionary classification in that the juvenile court has discretion to decide whether the child will be classified and into which tier he will be placed. R.C. 2152.83(B)(1). An offender who was 16 or 17 years old at the time of his offense is subject to mandatory classification as a juvenile-offender registrant, but the juvenile court has discretion as to what tier the juvenile will be placed in. R.C. 2152.83(A)(1).



{¶5} R.C. 2152.84(A)(1) provides that upon the completion of the disposition of the child for the sexually oriented offense, the juvenile court “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” pursuant to R.C. 2152.84(A)(2), and “to determine whether its prior determination” as to which tier the child should be placed in “should be continued or modified.” The court can only lower the child’s tier, it cannot increase it. R.C. 2152.84(B)(2); *In re M.I.*, 2017-Ohio-1524, 88 N.E.3d 1276, ¶ 2 (1st Dist.). But pursuant to R.C. 2152.84(A)(2), if the child is a mandatory juvenile-offender registrant who has been placed in the lowest tier classification, Tier I, the juvenile court can do nothing but continue the Tier I classification.

{¶6} We first turn to D.R.’s second assignment of error, which asserts that his continued mandatory classification as a Tier I juvenile-offender registrant pursuant to R.C. 2152.84(A)(2)(a) violates the Equal Protection Clauses of the United States and Ohio Constitutions.

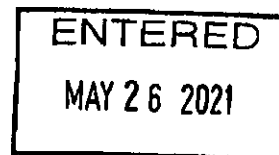
{¶7} In *In re M.I.*, this court held that the mandatory classification of 16- and 17-year-old sex offenders under R.C. 2152.83(A) and 2152.84(A)(2)(c) does not violate equal protection because the statutes are rationally related to the legitimate governmental interest of protecting the public from sex offenders. We noted the presumption of constitutionality afforded to the statutes and the burden on the juvenile to prove that they are unconstitutional. We stated that the purpose of sex-offender registration is to protect the public, and that the legislature’s concern for recidivism and public safety provides a rational basis for treating juvenile sex offenders differently based on their ages. *In re M.I.* at ¶ 2-6. M.I. did not raise, and

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therefore, we did not address whether M.I.'s due-process rights were violated, leaving that question open. D.R.'s second assignment of error is overruled.

{¶8} D.R.'s first assignment of error asserts that his continued classification as a Tier I offender violated his right to due process as guaranteed by the Fourteenth Amendment to the United States Constitution and Article I, Section 19 of the Ohio Constitution. D.R. argues that although R.C. 2152.84(A)(1) entitles him to a completion-of-disposition hearing, his status as a 16-year-old mandatory juvenile-offender registrant who has been classified in the lowest tier, Tier I, means that the hearing is meaningless because the juvenile court has no discretion to declassify him. He argues that although the court is required to hold the hearing and consider the statutory factors, the result of the hearing is a foregone conclusion because the juvenile court can do nothing but continue his classification as a Tier I offender. The rehabilitative goal of the juvenile court is undermined by eliminating the discretion of the juvenile judge. This, he argues, does not comport with procedural due process.

{¶9} The Due Course of Law provision in Article I, Section 16 of the Ohio Constitution is the equivalent of the Due Process Clause of the Fourteenth Amendment to the United States Constitution. *State v. Aalim*, 150 Ohio St.3d 489, 2017-Ohio-2956, 83 N.E.3d 883, ¶ 15. "The Due Process Clause is applicable in juvenile proceedings, and although its requirements are inexact, fundamental fairness is the overarching concern," and "a balanced approach is necessary to preserve the special nature of the juvenile process while protecting procedural fairness." *In re D.C.*, 2019-Ohio-4860, 149 N.E.3d 989, ¶ 35 (1st Dist.), citing *State v. D.H.*, 120 Ohio St.3d 540, 2009-Ohio-9, 901 N.E.2d 209, ¶ 51. "Procedural due process requires 'that an individual be given an opportunity to be heard at a meaningful time and in a meaningful manner.'" *In re Raheem L.*, 2013-Ohio-2423,



993 N.E.2d 455, ¶ 6 (1st Dist.), quoting *Morrison v. Warren*, 375 F.3d 468, 475 (6th Cir.2004), citing *Mathews v. Eldridge*, 424 U.S. 319, 335, 96 S.Ct. 893, 47 L.Ed.2d 18 (1976). This court noted in *In re M.I.* that the “Ohio Supreme Court has held that under the Due Process Clause of the Ohio Constitution, a juvenile has a right to ‘fundamental fairness’ that is violated where mandatory provisions in the juvenile statutes eliminate the ‘essential element of the juvenile process’—the judge’s discretion.” *In re M.I.* at ¶ 7, quoting *In re D.S.*, 146 Ohio St.3d 182, 2016-Ohio-1027, 54 N.E.3d 1184, ¶ 30, citing *In re C.P.*, 131 Ohio St.3d 513, 2012-Ohio-1446, 967 N.E.2d 729, ¶ 77.

{¶10} In *In re C.P.*, the Ohio Supreme Court held that R.C. 2152.86 violated due process to the extent that it imposed lifelong registration and notification requirements on juvenile sex offenders who were tried within the juvenile system. *In re C.P.* at ¶ 86. The court stated that “fundamental fairness is the overarching concern” in determining due-process standards as they relate to juveniles. *Id.* at ¶ 71, quoting *D.H.* at ¶ 44. The court noted that in requiring the imposition of a lifetime punishment with no chance of reconsideration for 25 years, R.C. 2152.86 eliminated the discretion of the juvenile judge. *Id.* at ¶ 77. The juvenile judge has no opportunity to determine whether the juvenile has been rehabilitated. *Id.* at ¶ 82-83. The court stated that an “automatic longterm punishment is contrary to the juvenile court’s emphasis on individual, corrective treatment and rehabilitation.” *Id.* The imposition of an adult penalty with no input from the juvenile judge, who does not decide the appropriateness of the penalty, violates fundamental fairness. *Id.* at ¶ 78. Additional procedural safeguards were required in order to meet the juvenile court’s goals of rehabilitation and reintegration into society. *Id.* at ¶ 85. “The protections and rehabilitative aims of the juvenile process must remain paramount; we must recognize that juvenile offenders are less culpable and more amenable to reform than

adult offenders.” *Id.* ¶ 84. The court ultimately held that imposing automatic, lifetime requirements of sex-offender registration and notification without the participation of a juvenile judge violated due process. *Id.* at ¶ 86.

{¶11} The Ohio Supreme Court has held that the imposition of registration and notification requirements on a juvenile that continue beyond age 18 or 21 does not violate due process. *In re D.S.*, 146 Ohio St.3d 182, 2016-Ohio-1027, 54 N.E.3d 1184. But the court pointed out in *In re D.S.* that the juvenile judge exercised discretion to determine the appropriate tier classification in which to place the juvenile, unlike the automatic classification at issue in *In re C.P.* The court stated, “Thus, the offending aspect of the sentence was the inability of the juvenile court judge to exercise discretion in fashioning the disposition. When it comes to juvenile offenders facing penalties into adulthood, ‘[f]undamental fairness requires that the judge decide the appropriateness of any such penalty.’ ” *Id.* at ¶ 31, citing *In re C.P.* at ¶ 78. The court noted that the classification scheme in *In re C.P.* was different from the one in *In re D.S.* in that the *In re C.P.* statutory scheme precluded the juvenile judge from determining whether the juvenile had responded to rehabilitation. *Id.* at ¶ 35, citing *In re C.P.* at ¶ 83. The court also pointed out that the statutory scheme in *In re D.S.* provided for periodic review of the juvenile offender’s registrant status for purposes of modification or termination; the juvenile judge maintained discretion throughout the course of the offender’s registration period as to whether to continue, modify or terminate the classification. *Id.* at ¶ 36. The court held that the “allowance for periodic review and modification” was consistent “with the rehabilitative purposes of the juvenile system.” *Id.* ¶ 37.

{¶12} Because D.R. was 16 at the time he committed his offense, the trial court was required to classify him as a juvenile-offender registrant. R.C. 2152.83(A). The juvenile court classified him at disposition as a Tier I juvenile-offender

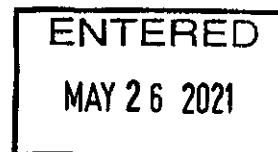
registrant, the lowest tier. Upon the completion of D.R.'s disposition, the juvenile court was required to hold a hearing at which it was "to review the effectiveness of the disposition and of any treatment provided for [D.R.], to determine the risks that [D.R.] might re-offend, to determine whether the prior classification * * * should be continued or terminated * * * and to determine whether its prior determination * * * as to whether [D.R.] is a tier I sex offender * * * should be continued or modified." R.C. 2152.84(A)(1). But pursuant to R.C. 2152.83(A) and 2152.84(A)(2)(b), the court was prohibited from entering an order declassifying D.R. Even though the juvenile court was required to hold a hearing and consider the statutory factors, because D.R. had been classified as a Tier I offender at disposition, the juvenile court had no discretion to discontinue his classification as a Tier I offender. Therefore, the completion-of-disposition hearing was meaningless. D.R. was not " 'given an opportunity to be heard at a meaningful time and in a meaningful manner,' " in violation of his due-process rights. *See In re Raheem L.*, 2013-Ohio-2423, 993 N.E.2d 455, at ¶ 6, quoting *Morrison*, 375 F.3d at 475, citing *Mathews*, 424 U.S. at 335, 96 S.Ct. 893, 47 L.Ed.2d 18.

{¶13} "Fundamental fairness is the overarching concern" in determining due-process standards as they relate to juveniles. *In re C.P.*, 131 Ohio St.3d 513, 2012-Ohio-1446, 967 N.E.2d 729, at ¶ 71, quoting *D.H.*, 120 Ohio St.3d 540, 2009-Ohio-9, 901 N.E.2d 209, at ¶ 44. Procedural safeguards are required to meet the juvenile court's goals of rehabilitation and correction. *Id.* at ¶ 85. As a juvenile offender, D.R. is less culpable and more amenable to reform than adult offenders. *See id.* at ¶ 84. "The disposition of a child is so different from the sentencing of an adult that fundamental fairness demands the unique expertise of a juvenile judge." *Id.* at ¶ 76, citing *D.H.* at ¶ 59. "The protections and rehabilitative aims of the juvenile process must remain paramount * * *." *Id.* When a juvenile offender such

as D.R. is facing a penalty that continues into adulthood, “[f]undamental fairness requires that the judge decide the appropriateness of any such penalty.” *Id.* at ¶ 78. Where the statutory scheme prevents the juvenile court from determining whether the juvenile has responded to rehabilitation, it offends due process. *In re D.S.*, 146 Ohio St.3d 182, 2016-Ohio-1027, 54 N.E.3d 1184, at ¶ 35, citing *In re C.P.* at ¶ 83.

{¶14} Here, the essential element of fundamental fairness as it applies in the juvenile system, the discretion of the juvenile judge in fashioning a disposition, is missing. Even though the juvenile court was required to hold a hearing and consider the statutory factors as they related to D.R., the court had no discretion to do anything but continue D.R.’s classification as a Tier I juvenile-offender registrant. This is at odds with the rehabilitative goal of the juvenile court in that it precluded the juvenile court from determining whether D.R. had responded to rehabilitation, which “undercuts the rehabilitative purpose of Ohio’s juvenile system and eliminates the important role of the juvenile court’s discretion in the disposition of juvenile offenders and thus fails to meet the due process requirement of fundamental fairness.” *See In re C.P.* at ¶ 85. We hold that R.C. 2152.84 as applied to D.R., a juvenile-offender registrant who had already been placed in the lowest tier classification, Tier I, violates due process. D.R.’s continued classification as a Tier I offender is unconstitutional as a violation of his due-process rights.

{¶15} We note that this case is distinguishable from the Eighth Appellate District cases of *In re D.C.*, 8th Dist. Cuyahoga No. 103854, 2016-Ohio-4571, and *In re R.A.H.*, 8th Dist. Cuyahoga No. 101936, 2015-Ohio-3342, *rev’d in part on other grounds*, 148 Ohio St.3d 531, 2016-Ohio-7592, 71 N.E.3d 1015, which held that the mandatory classification of 16- and 17-year-old offenders as juvenile-offender registrants did not violate due process. In those cases the juveniles were challenging the constitutionality of the initial classification under R.C. 2152.83(A), and not the



completion of disposition under R.C. 2152.84. Further, D.C. had been classified as a Tier II juvenile-offender registrant.

{¶16} The second assignment of error is sustained. Because we hold that D.R.'s continued classification as a Tier I juvenile-offender registrant violated his procedural due-process rights, we do not reach his argument under his second assignment of error that it violates his right to substantive due process or his argument under his third assignment of error that it violates the prohibition against cruel and unusual punishment.

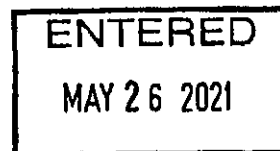
{¶17} The juvenile court's order continuing D.R.'s Tier I classification is reversed, and this cause is remanded for a new completion-of-disposition hearing under R.C. 2152.84, during which the juvenile court may exercise its discretion to continue D.R.'s classification as a Tier I juvenile-offender registrant or declassify him.

Judgment reversed and cause remanded.

MYERS, P.J., and BERGERON, J., concur.

Please note:

The court has recorded its own entry this date.

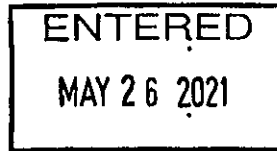


**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

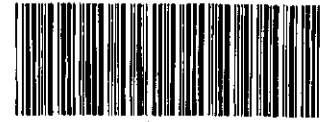
IN RE: D.R.

:

APPEAL NO. C-190594
TRIAL NO. 18-901Z



JUDGMENT ENTRY.



D132023312

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

The judgment of the trial court is reversed and cause remanded 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 May 26, 2021, per Order of the Court.

By: 
Administrative Judge

AMENDMENT XIV

Passed by Congress June 13, 1866. Ratified July 9, 1868.

Note: Article I, section 2, of the Constitution was modified by section 2 of the 14th amendment.

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 the power to enforce, by appropriate legislation, the provisions of this article.

**Changed by section 1 of the 26th amendment.*

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 (5882)

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

Current through File 54 of the 134th General Assembly (2021-2022).

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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 2151. Juvenile Courts--General Provisions (Refs & Annos)
Administration, Officials, and Jurisdiction

R.C. § 2151.23

2151.23 Jurisdiction of juvenile court; orders for child support

Effective: September 30, 2021

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), (I), (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), (I), (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;
- (17) Concerning emancipated young adults under sections 2151.45 to 2151.455 of the Revised Code;
- (18) To hear and determine a request for a court order to examine and interview a child who may be an abused, neglected, or dependent child under section 2151.25 of the Revised Code.
- (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 division (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 division (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)

(2021 H 110, eff. 9-30-21; 2019 H 166, eff. 10-17-19; 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 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;

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. § 2152.01

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 (9)

R.C. § 2152.01, OH ST § 2152.01

Current through File 54 of the 134th General Assembly (2021-2022).

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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)
Dispositional Orders

R.C. § 2152.191

**2152.191 Application of certain sections of Revised Code to child
adjudicated a delinquent child for committing sexually oriented offense**

Effective: January 1, 2008

Currentness

If a child is adjudicated a delinquent child for committing a sexually oriented offense or a child-victim oriented offense, if the child is fourteen years of age or older at the time of committing the offense, and if the child committed the offense on or after January 1, 2002, both of the following apply:

(A) Sections 2152.82 to 2152.86 and Chapter 2950. of the Revised Code apply to the child and the adjudication.

(B) In addition to any order of disposition it makes of the child under this chapter, the court may make any determination, adjudication, or order authorized under sections 2152.82 to 2152.86 and Chapter 2950. of the Revised Code and shall make any determination, adjudication, or order required under those sections and that chapter.

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. § 2152.191, OH ST § 2152.191

Current through File 54 of the 134th General Assembly (2021-2022).

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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. § 2152.82

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)

Notes of Decisions (10)

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 (E) 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.

(E) 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.

KeyCite Red Flag - Severe Negative Treatment

Unconstitutional or Preempted/Unconstitutional as Applied by In re D.R., Ohio App. 1 Dist., May 26, 2021

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 (10)

R.C. § 2152.84, OH ST § 2152.84

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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 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)

Notes of Decisions (3)

R.C. § 2152.85, OH ST § 2152.85

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Unconstitutional or Preempted Recognized as Unconstitutional by In re D.R., Ohio App. 1 Dist., May 26, 2021

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 (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.

Baldwin's Ohio Revised Code Annotated
Title XXIX. Crimes--Procedure (Refs & Annos)
Chapter 2950. Sex Offenders (Refs & Annos)

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.

(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 (15)

R.C. § 2950.02, OH ST § 2950.02

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