

AN ACT

To amend section 2305.111 and to enact section 2950.021 of the Revised Code to enact the Scout's Honor Law to eliminate the limitations period for a civil action based on a claim of childhood sexual abuse only for purposes of filing claims against a bankruptcy estate of an organization chartered under federal law; to provide with respect to sex offenders and child-victim offenders who committed their offense prior to January 1, 2008, mechanisms for reclassifying or classifying the offenders in specified circumstances under the SORN Law in effect prior to that date; to subsequently amend section 2305.111 of the Revised Code five years after the effective date of that section to remove the described elimination of the limitations period; and to declare an emergency.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That section 2305.111 be amended and section 2950.021 of the Revised Code be enacted to read as follows:

Sec. 2305.111. (A) As used in this section:

(1) "Childhood sexual abuse" means any conduct that constitutes any of the violations identified in division (A)(1)(a) or (b) of this section and would constitute a criminal offense under the specified section or division of the Revised Code, if the victim of the violation is at the time of the violation a child under eighteen years of age or a child with a developmental disability or physical impairment under twenty-one years of age. The court need not find that any person has been convicted of or pleaded guilty to the offense under the specified section or division of the Revised Code in order for the conduct that is the violation constituting the offense to be childhood sexual abuse for purposes of this division. This division applies to any of the following violations committed in the following specified circumstances:

(a) A violation of section 2907.02 or of division (A)(1), (5), (6), (7), (8), (9), (10), (11), or (12) of section 2907.03 of the Revised Code;

(b) A violation of section 2907.05 or 2907.06 of the Revised Code if, at the time of the violation, any of the following apply:

(i) The actor is the victim's natural parent, adoptive parent, or stepparent or the guardian, custodian, or person in loco parentis of the victim.

(ii) The victim is in custody of law or a patient in a hospital or other institution, and the actor has supervisory or disciplinary authority over the victim.

(iii) The actor is a teacher, administrator, coach, or other person in authority employed by or

serving in a school for which the state board of education prescribes minimum standards pursuant to division (D) of section 3301.07 of the Revised Code, the victim is enrolled in or attends that school, and the actor is not enrolled in and does not attend that school.

(iv) The actor is a teacher, administrator, coach, or other person in authority employed by or serving in an institution of higher education, and the victim is enrolled in or attends that institution.

(v) The actor is the victim's athletic or other type of coach, is the victim's instructor, is the leader of a scouting troop of which the victim is a member, or is a person with temporary or occasional disciplinary control over the victim.

(vi) The actor is a mental health professional, the victim is a mental health client or patient of the actor, and the actor induces the victim to submit by falsely representing to the victim that the sexual contact involved in the violation is necessary for mental health treatment purposes.

(vii) The victim is confined in a detention facility, and the actor is an employee of that detention facility.

(viii) The actor is a cleric, and the victim is a member of, or attends, the church or congregation served by the cleric.

(2) "Cleric" has the same meaning as in section 2317.02 of the Revised Code.

(3) "Mental health client or patient" has the same meaning as in section 2305.51 of the Revised Code.

(4) "Mental health professional" has the same meaning as in section 2305.115 of the Revised Code.

(5) "Sexual contact" has the same meaning as in section 2907.01 of the Revised Code.

(6) "Victim" means, except as provided in division (B) of this section, a victim of childhood sexual abuse.

(B) Except as provided in section 2305.115 of the Revised Code and subject to division (C) of this section, an action for assault or battery shall be brought within one year after the cause of the action accrues. For purposes of this section, a cause of action for assault or battery accrues upon the later of the following:

(1) The date on which the alleged assault or battery occurred;

(2) If the plaintiff did not know the identity of the person who allegedly committed the assault or battery on the date on which it allegedly occurred, the earlier of the following dates:

(a) The date on which the plaintiff learns the identity of that person;

(b) The date on which, by the exercise of reasonable diligence, the plaintiff should have learned the identity of that person.

~~(C) An (C)(1) Except as provided in division (C)(2) of this section, an action for assault or battery brought by a victim of childhood sexual abuse based on childhood sexual abuse, or an action brought by a victim of childhood sexual abuse asserting any claim resulting from childhood sexual abuse, shall be brought within twelve years after the cause of action accrues. For purposes of this section, a cause of action for assault or battery based on childhood sexual abuse, or a cause of action~~

~~for a claim resulting from childhood sexual abuse, accrues upon the date on which the victim reaches the age of majority.~~ If the defendant in an action brought by a victim of childhood sexual abuse asserting a claim resulting from childhood sexual abuse that occurs on or after August 3, 2006, has fraudulently concealed from the plaintiff facts that form the basis of the claim, the running of the limitations period with regard to that claim is tolled until the time when the plaintiff discovers or in the exercise of due diligence should have discovered those facts.

(2) Only for purposes of making claims against a bankruptcy estate of an organization chartered under part B of subtitle II of Title 36 of the United States Code, an action for assault or battery brought by a victim of childhood sexual abuse based on childhood sexual abuse, or an action brought by a victim of childhood sexual abuse asserting any claim resulting from childhood sexual abuse, may be brought at any time after the cause of action accrues.

(3) For purposes of this section, a cause of action for assault or battery based on childhood sexual abuse, or a cause of action for a claim resulting from childhood sexual abuse, accrues upon the date on which the victim reaches the age of majority.

Sec. 2950.021. (A) As used in this section:

(1) "Wrongly classified Tier offender" means a sex offender or child-victim offender who has been classified by a court as a Tier I sex offender/child-victim offender, a Tier II sex offender/child-victim offender, or a Tier III sex offender/child-victim offender based on a sexually oriented offense or a child-victim oriented offense committed prior to January 1, 2008, and whose Tier classification based on that offense is invalid under the decision of the Ohio supreme court in *State v. Williams*, 129 Ohio St.3d 344, 2011-Ohio-3374.

(2) "Pre-2008 classification" means one of the categories in which sex offenders and child-victim offenders were included under Chapter 2950. of the Revised Code as it existed immediately prior to January 1, 2008, and that determined the manner in which, and duration for which, the duties under that chapter applied to such offenders, including habitual sex offenders, sexual predators, habitual child-victim offenders, child-victim predators, sex offenders who were convicted of or pleaded guilty to an aggravated sexually oriented offense, and any other sex offenders or child-victim offenders not included in any of the preceding categories who were subject to duties, responsibilities, and restrictions under that chapter.

(B)(1) At any time before a wrongly classified Tier offender completes any registration and verification duties under this chapter that are associated with the sexually oriented offense or child-victim oriented offense that is the basis of the offender being a wrongly classified Tier offender, the court, upon the request of either the state or the offender or on the court's own initiative, shall hold a hearing to determine the pre-2008 classification that should apply to the offender under the provisions of Chapter 2950. of the Revised Code as it existed immediately prior to January 1, 2008. This division applies with respect to a wrongly classified Tier offender who is completing registration and verification duties for the first time or one who has completed those duties one or more times previously and subsequently is completing them again in accordance with the provisions

of Chapter 2950. of the Revised Code.

(2) The court shall give to both the state and the wrongly classified offender who is the subject of the hearing at least thirty days' notice of the date, time, and location of any hearing held under division (B)(1) of this section. The offender has the right to be represented by counsel and, if indigent, the right to have counsel appointed to represent the offender.

(3) A hearing held under division (B)(1) of this section shall be governed by, and held in accordance with, Chapter 2950. of the Revised Code as it existed immediately prior to January 1, 2008, including one of the following as appropriate:

(a) As applicable to sexually oriented offenders, section 2950.09 of the Revised Code as it existed immediately prior to that date;

(b) As applicable to child-victim offenders, section 2950.091 of the Revised Code as it existed immediately prior to that date.

(4) If, at the conclusion of the hearing held under division (B)(1) of this section, the court determines that the wrongly classified Tier offender should be classified under the provisions of Chapter 2950. of the Revised Code as it existed immediately prior to January 1, 2008, the court shall determine the appropriate pre-2008 classification for the offender, shall make any other necessary findings under those provisions, and shall file an entry that does all of the following:

(a) Sets forth the pre-2008 classification that the court determined for the offender and other relevant information;

(b) Specifies that the pre-2008 classification that the court determined for the offender is subject to enforcement under Chapter 2950. of the Revised Code as it existed immediately prior to January 1, 2008;

(c) Vacates the prior classification of the offender as a Tier I sex offender/child-victim offender, Tier II sex offender/child-victim offender, or Tier III sex offender/child-victim offender.

(5) Any wrongly classified Tier offender who is reclassified under division (B) of this section shall receive credit toward the registration and verification duties under the new pre-2008 classification for all time that the offender has been in compliance with the registration and verification duties as a Tier I sex offender/child-victim offender, Tier II sex offender/child-victim offender, or Tier III sex offender/child-victim offender.

(6) Nothing in division (B) of this section limits either the state or a wrongly classified Tier offender from challenging on direct appeal a classification of the offender as a Tier I sex offender/child-victim offender, Tier II sex offender/child-victim offender, or Tier III sex offender/child-victim offender.

(7) Proceedings under division (B) of this section shall be initiated by the filing of a motion by a wrongly classified Tier offender or the state, or by the court's own initiative, within one year after the effective date of this section. If proceedings are not initiated within one year after the effective date of this section with respect to a wrongly classified Tier offender, the offender's Tier classification thereafter shall be deemed to be a valid classification subject to enforcement under

Chapter 2950. of the Revised Code as it exists on and after January 1, 2008.

(8) No hearing may be held under division (B)(1) of this section with respect to a wrongly classified Tier offender if the offender, in writing in a motion or in another document filed with the court in the case, affirmatively accepts the Tier classification assigned to the offender. Upon such acceptance, the court shall issue an order recognizing that the wrongly classified Tier offender affirmatively accepts the Tier classification and is subject to Chapter 2950. of the Revised Code as it exists on and after January 1, 2008.

(C) If, on or after the effective date of this section, a person is convicted of or pleads guilty to a sexually oriented offense or child-victim oriented offense committed prior to January 1, 2008, the court imposing sentence for the offense shall hold a hearing to determine the pre-2008 classification that should apply to the offender under the provisions of Chapter 2950. of the Revised Code as it existed immediately prior to January 1, 2008. Division (B)(3) of this section applies with respect to a hearing held under this division.

If, at the conclusion of the hearing held under this division, the court determines that the offender should be classified under the provisions of Chapter 2950. of the Revised Code as it existed immediately prior to January 1, 2008, the court shall determine the appropriate pre-2008 classification for the offender and shall file an entry that does both of the following:

(1) Sets forth the pre-2008 classification that the court determined for the offender;

(2) Specifies that the pre-2008 classification that the court determined for the offender is subject to enforcement under Chapter 2950. of the Revised Code as it existed immediately prior to January 1, 2008.

SECTION 2. That existing section 2305.111 of the Revised Code is hereby repealed.

SECTION 3. That the version of section 2305.111 of the Revised Code amended in Section 1 of this act be amended to read as follows:

Sec. 2305.111. (A) As used in this section:

(1) "Childhood sexual abuse" means any conduct that constitutes any of the violations identified in division (A)(1)(a) or (b) of this section and would constitute a criminal offense under the specified section or division of the Revised Code, if the victim of the violation is at the time of the violation a child under eighteen years of age or a child with a developmental disability or physical impairment under twenty-one years of age. The court need not find that any person has been convicted of or pleaded guilty to the offense under the specified section or division of the Revised Code in order for the conduct that is the violation constituting the offense to be childhood sexual abuse for purposes of this division. This division applies to any of the following violations committed in the following specified circumstances:

(a) A violation of section 2907.02 or of division (A)(1), (5), (6), (7), (8), (9), (10), (11), or (12) of section 2907.03 of the Revised Code;

(b) A violation of section 2907.05 or 2907.06 of the Revised Code if, at the time of the violation, any of the following apply:

(i) The actor is the victim's natural parent, adoptive parent, or stepparent or the guardian, custodian, or person in loco parentis of the victim.

(ii) The victim is in custody of law or a patient in a hospital or other institution, and the actor has supervisory or disciplinary authority over the victim.

(iii) The actor is a teacher, administrator, coach, or other person in authority employed by or serving in a school for which the state board of education prescribes minimum standards pursuant to division (D) of section 3301.07 of the Revised Code, the victim is enrolled in or attends that school, and the actor is not enrolled in and does not attend that school.

(iv) The actor is a teacher, administrator, coach, or other person in authority employed by or serving in an institution of higher education, and the victim is enrolled in or attends that institution.

(v) The actor is the victim's athletic or other type of coach, is the victim's instructor, is the leader of a scouting troop of which the victim is a member, or is a person with temporary or occasional disciplinary control over the victim.

(vi) The actor is a mental health professional, the victim is a mental health client or patient of the actor, and the actor induces the victim to submit by falsely representing to the victim that the sexual contact involved in the violation is necessary for mental health treatment purposes.

(vii) The victim is confined in a detention facility, and the actor is an employee of that detention facility.

(viii) The actor is a cleric, and the victim is a member of, or attends, the church or congregation served by the cleric.

(2) "Cleric" has the same meaning as in section 2317.02 of the Revised Code.

(3) "Mental health client or patient" has the same meaning as in section 2305.51 of the Revised Code.

(4) "Mental health professional" has the same meaning as in section 2305.115 of the Revised Code.

(5) "Sexual contact" has the same meaning as in section 2907.01 of the Revised Code.

(6) "Victim" means, except as provided in division (B) of this section, a victim of childhood sexual abuse.

(B) Except as provided in section 2305.115 of the Revised Code and subject to division (C) of this section, an action for assault or battery shall be brought within one year after the cause of the action accrues. For purposes of this section, a cause of action for assault or battery accrues upon the later of the following:

(1) The date on which the alleged assault or battery occurred;

(2) If the plaintiff did not know the identity of the person who allegedly committed the assault or battery on the date on which it allegedly occurred, the earlier of the following dates:

(a) The date on which the plaintiff learns the identity of that person;

(b) The date on which, by the exercise of reasonable diligence, the plaintiff should have learned the identity of that person.

~~(C)(1) Except as provided in division (C)(2) of this section, an (C) An~~ action for assault or battery brought by a victim of childhood sexual abuse based on childhood sexual abuse, or an action brought by a victim of childhood sexual abuse asserting any claim resulting from childhood sexual abuse, shall be brought within twelve years after the cause of action accrues. For purposes of this section, a cause of action for assault or battery based on childhood sexual abuse, or a cause of action for a claim resulting from childhood sexual abuse, accrues upon the date on which the victim reaches the age of majority. If the defendant in an action brought by a victim of childhood sexual abuse asserting a claim resulting from childhood sexual abuse that occurs on or after August 3, 2006, has fraudulently concealed from the plaintiff facts that form the basis of the claim, the running of the limitations period with regard to that claim is tolled until the time when the plaintiff discovers or in the exercise of due diligence should have discovered those facts.

~~(2) Only for purposes of making claims against a bankruptcy estate of an organization chartered under part B of subtitle II of Title 36 of the United States Code, an action for assault or battery brought by a victim of childhood sexual abuse based on childhood sexual abuse, or an action brought by a victim of childhood sexual abuse asserting any claim resulting from childhood sexual abuse, may be brought at any time after the cause of action accrues.~~

~~(3) For purposes of this section, a cause of action for assault or battery based on childhood sexual abuse, or a cause of action for a claim resulting from childhood sexual abuse, accrues upon the date on which the victim reaches the age of majority.~~

SECTION 4. That the existing version of section 2305.111 of the Revised Code as amended in Section 1 this act is hereby repealed.

SECTION 5. Sections 3 and 4 of this act take effect five years after the effective date of section 2305.111 of the Revised Code, as amended by Section 1 of this act.

SECTION 6. This act shall be known as the Scout's Honor Law.

SECTION 7. Section 2305.111 of the Revised Code, as amended by this act, is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is to ensure the maximum number of individuals receive the maximum amount of each individual's claim in the bankruptcy settlement. Therefore, section 2305.111 of the Revised Code, as amended by this act, shall go into immediate effect.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20 ____.

Secretary of State.

File No. _____ Effective Date _____