



Judicial Impact Statement

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State v. Bodyke (2010)

PROPOSED TITLE INFORMATION: Eliminates R.C. 2950.031 and 2950.032, consistent with *State v. Bodyke* (2010).

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SUMMARY OF IMPACT: The Criminal Law & Procedure Committee of the Ohio Judicial Conference reviewed the *State v. Bodyke* (2010) decision and determined that in that decision R.C. 2950.031 and 2950.032 were declared unconstitutional and rendered null and void. The Ohio Judicial Conference believes that elimination of these sections from the text of the Ohio Revised Code would bring the code into harmony with the Supreme Court of Ohio ruling, it would achieve clarity for the public and others unaware of the court decision, and it would enhance public confidence in the law.

BACKGROUND

On March 29, 2007, the Adam Walsh Study Committee convened to adopt initial recommendations for revising Ohio law to conform to the Adam Walsh Child Protection and Safety Act of 2006 (“AWA”). The AWA proposed increased penalties for violent crimes and sex offenses against children and created a new classification system for all sex offenders. These ideas would later be introduced in the form of Senate Bill 10, of the 127th General Assembly.

One of the most controversial issues surrounding Ohio’s implementation of the AWA, was the question of whether the AWA should be retroactively applied to offenders who were already registered under Ohio’s existing Sex Offense Registration and Notification (“SORN”) Law. The Ohio Criminal Sentencing Commission (“OCSC”) researched the question of retroactively applying the AWA and concluded that retroactive application is likely to result in numerous constitutional challenges. Specifically, the OCSC warned that because the AWA’s three-tier classification system is tied directly to the nature of the offense committed and does not allow for judicial discretion in classifying offenders, retroactive application of that classification system appears more like a criminal penalty than a civil remedy.

In 2010, the Supreme Court of Ohio held that the reclassification of offenders who had already been classified under Megan’s law was unconstitutional due to a violation of the separation of powers doctrine. As a result of this finding, the

What is a Judicial Impact Statement?

A Judicial Impact Statement describes as objectively and accurately as possible the probable, practical effects on Ohio’s court system of the adoption of the particular bill. The court system includes people who use the courts (parties to suits, witnesses, attorneys and other deputies, probation officials, judges and others). The Ohio Judicial Conference prepares these statements pursuant to R.C. 105.911.

Ohio Supreme Court severed these two sections of the code, but left the rest of the changes implemented in Senate Bill 10 undisturbed.

JUDICIAL IMPACT

Senate Bill 10 had a substantial judicial impact because it prescribed new categories and procedures for sentencing sexual offenders. Specifically, the bill replaced the classifications that were created under Megan's law, and changed to a three-tier system that required longer terms of community notification, and a much greater emphasis on offender registration.

In light of the decision in *State v. Bodyke*, courts are faced with many petitions to reclassify offenders back to their Megan's law classification. In many cases, this will result in an end to the registration and community notification requirements that these offenders were required to comply with, because many who were nearing the end of their terms under Megan's law saw their terms of registration extended under the AWA. The current Ohio Revised Code is not in harmony with the court's holding, and sections 2950.031 and 2950.032 need to be eliminated to properly reflect the current law.

CONCLUSION

The Judicial Conference supports the introduction of legislation that will eliminate section 2950.031 and 2950.032 of the Ohio Revised Code, to harmonize the code with the holding in *State v. Bodyke*.