



## Ohio Revised Code

### Section 2950.021 Wrongly classified offenders.

Effective: January 11, 2024

Legislation: House Bill 35

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(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.