



Ohio Revised Code

Section 2903.42 Enrollment in violent offender database; presumption.

Effective: March 20, 2019

Legislation: Senate Bill 231 - 132nd General Assembly

(A)(1) For each person who is classified a violent offender, it is presumed that the violent offender shall be required to enroll in the violent offender database with respect to the offense that so classifies the person and shall have all violent offender database duties with respect to that offense for ten years after the offender initially enrolls in the database. The presumption is a rebuttable presumption that the violent offender may rebut as provided in division (A)(4) of this section, after filing a motion in accordance with division (A)(2)(a) or (b) of this section, whichever is applicable. Each violent offender shall be informed of the presumption established under this division, of the offender's right to file a motion to rebut the presumption, of the procedure and criteria for rebutting the presumption, and of the effect of a rebuttal and the post-rebuttal hearing procedures and possible outcome, as follows:

(a) If the person is classified a violent offender under division (A)(1) of section 2903.41 of the Revised Code, the court that is sentencing the offender for the offense that so classifies the person shall inform the offender before sentencing of the presumption, the right, and the procedure, criteria, and possible outcome.

(b) If the person is classified a violent offender under division (A)(2) of section 2903.41 of the Revised Code, the official in charge of the jail, workhouse, state correctional institution, or other institution in which the offender is serving a prison term, term of imprisonment, or other term of confinement for the offense, or the official's designee, shall inform the offender in writing, a reasonable period of time before the offender is released from the confinement, of the presumption, the right, and the procedure, criteria, and possible outcome.

(2) A violent offender who wishes to rebut the presumption established under division (A)(1) of this section shall file a motion in accordance with whichever of the following is applicable, and shall serve a copy of the motion on the prosecutor:

(a) If the person is classified a violent offender under division (A)(1) of section 2903.41 of the



Revised Code, the offender shall file the motion with the court that is sentencing the offender for the offense that classifies the person a violent offender. The motion shall assert that the offender was not the principal offender in the commission of that offense and request that the court not require the offender to enroll in the violent offender database and not have all VOD duties with respect to that offense. The motion shall be filed prior to or at the time of sentencing.

(b) If the person is classified a violent offender under division (A)(2) of section 2903.41 of the Revised Code, the offender shall file the motion with the court that sentenced the offender for the offense that classifies the person a violent offender. The motion shall assert that the offender was not the principal offender in the commission of that offense and request that the court not require the offender to enroll in the violent offender database and not have all VOD duties with respect to that offense. The motion shall be filed prior to the time of the person's release from confinement in the jail, workhouse, state correctional institution, or other institution under the prison term, term of imprisonment, or other term of confinement for the offense listed in division (A)(1) of section 2903.41 of the Revised Code.

(3) If a violent offender does not file a motion under division (A)(2)(a) or (b) of this section, the violent offender shall be required to enroll in the violent offender database with respect to the offense that classifies the person a violent offender and shall have all VOD duties with respect to that offense for ten years after the offender initially enrolls in the database. If the person is classified a violent offender under division (A)(1) of section 2903.41 of the Revised Code, the court shall provide the offender notice of the duties pursuant to division (C) of this section. If the person is classified a violent offender under division (A)(2) of section 2903.41 of the Revised Code, the offender shall be provided notice of the duties pursuant to divisions (B) and (C) of this section.

(4) If a violent offender files a motion under division (A)(2)(a) or (b) of this section, the offender has the burden of proving to the court that is sentencing, or that has sentenced, the offender, by a preponderance of the evidence, that the offender was not the principal offender in the commission of the offense that classifies the person a violent offender. If a violent offender files such a motion, one of the following applies:

(a) If the violent offender proves to the court, by a preponderance of the evidence, that the offender was not the principal offender in the commission of the offense that classifies the person a violent



offender, the presumption is rebutted and the court shall continue the hearing for the purpose of determining whether the offender, notwithstanding the rebuttal of the presumption, should be required to enroll in the violent offender database and have all VOD duties with respect to that offense. In making that determination, the court shall consider all of the factors identified in divisions (A)(4)(a)(i) to (iv) of this section. If the court, after considering those factors at the hearing, determines that the offender, notwithstanding the rebuttal of the presumption, should be required to enroll in the violent offender database and have all VOD duties with respect to that offense, the court shall issue an order specifying that the offender is required to enroll in the violent offender database with respect to that offense and will have all VOD duties with respect to that offense for ten years after the offender initially enrolls in the database. Upon the court's issuance of such an order, the offender shall be required to enroll in the violent offender database and will have all VOD duties with respect to that offense for ten years after the offender initially enrolls in the database. The court shall provide the offender notice of the duties pursuant to division (C) of this section, and shall provide a copy of the order to the prosecutor and to the bureau of criminal identification and investigation. Absent such a determination at the hearing after consideration of those factors, the court shall issue an order specifying that the offender is not required to enroll in the violent offender database and has no VOD duties with respect to the offense that classifies the person a violent offender, and shall provide a copy of the order to the prosecutor and to the bureau of criminal identification and investigation. In making a determination at a hearing under this division, a court shall consider all of the following factors:

- (i) Whether the offender has any convictions for any offense of violence, prior to the offense at issue that classifies the person a violent offender, and whether those prior convictions, if any, indicate that the offender has a propensity for violence;
- (ii) The results of a risk assessment of the offender conducted through use of the single validated risk assessment tool established under section 5120.114 of the Revised Code;
- (iii) The degree of culpability or involvement of the offender in the offense at issue that classifies the person a violent offender;
- (iv) The public interest and safety.



(b) If the violent offender does not prove to the court, by a preponderance of the evidence, that the offender was not the principal offender in the commission of the offense that classifies the person a violent offender, the court shall issue an order specifying that the offender is required to enroll in the violent offender database and has all VOD duties with respect to that offense, and shall provide a copy of the order to the prosecutor and to the bureau of criminal identification and investigation. Upon the court's issuance of such an order, the offender shall be required to enroll in the violent offender database with respect to that offense and will have all VOD duties with respect to that offense for ten years after the offender initially enrolls in the database. The court shall provide the offender notice of the duties pursuant to division (C) of this section.

(B) Each person who is classified a violent offender under division (A)(2) of section 2903.41 of the Revised Code and who does not file a motion under division (A)(2)(a) or (b) of this section shall be provided notice of the offender's duty to enroll in the violent offender database with respect to the offense that classifies the person a violent offender and of all VOD duties with respect to that offense and that those duties last for ten years after the offender initially enrolls in the database. The official in charge of the jail, workhouse, state correctional institution, or other institution in which the offender is serving the prison term, term of imprisonment, or other term of confinement, or the official's designee, shall provide the notice to the offender before the offender is released pursuant to any type of supervised release or before the offender is otherwise released from the prison term, term of imprisonment, or other term of confinement.

(C) The judge, official, or official's designee providing the notice under division (A) (3), (A)(4), or (B) of this section shall require the violent offender to read and sign a form stating that the violent offender has received and understands the notice. If the violent offender is unable to read, the judge, official, or official's designee shall inform the violent offender of the violent offender's duties as set forth in the notice and shall certify on the form that the judge, official, or official's designee informed the violent offender of the violent offender's duties and that the violent offender indicated an understanding of those duties.

The attorney general shall prescribe the notice and the form provided under this division. The notice shall inform the offender that, to satisfy the duty to enroll, the violent offender must enroll personally with the sheriff of the county in which the offender resides or that sheriff's designee and include notice of the offender's duties to re-enroll annually and when the offender has a change of address.



The person providing the notice under this division shall provide a copy of the notice and signed form to the violent offender. The person providing the notice also shall determine the county in which the violent offender intends to reside and shall provide a copy of the signed form to the sheriff of that county in accordance with rules adopted by the attorney general pursuant to Chapter 119. of the Revised Code and to the bureau of criminal identification and investigation.

This division also applies with respect to a qualifying out-of-state violent offender, when specified under division (C) of section 2903.421 of the Revised Code.