

Sponsor Testimony for Sub. HB 68
Representative Marlene Anielski
House Criminal Justice Committee
February 28, 2017

Thank you Chair Manning, Vice-Chair Rezabek, Ranking Member Johnson and members of the House Criminal Justice Committee for the opportunity to speak today on behalf of Sub. HB 68. The goal of the legislation is to better protect those vulnerable Ohioans who may not be able to protect themselves. Sub. HB 68 is essentially the same as HB 439 in the 131st General Assembly, fully supported by the Ohio Prosecuting Attorneys Association. It passed unanimously out of the House and did not have the opportunity to get on the Senate floor at the end of last year.

What does House Sub. HB 68 do? It alters the revised code to include an impaired person as a victim of voyeurism and to include any conduct involving an impaired person equally with the following offenses: pandering obscenity involving a minor, pandering sexually oriented matter involving a minor and illegal use of a minor in a nudity-oriented material or performance.

Impaired person means a person whose ability to resist or consent is substantially impaired because of a mental or physical condition or because of advanced age. The offender must know or have reasonable cause to believe that the other person's ability to resist or consent is substantially impaired because of a mental or physical condition or because of advanced age.

The legislation is drafted so that impaired person holds the same meaning for Ohio Revised Code section 2907.321, which is pandering obscenity involving a minor. Those who violate this section are guilty of pandering obscenity involving a minor, and an impaired person, under Sub. HB 68. This section is a felony of the second degree, unless in the cases of those who buy, procure, possess, or control any obscene material that has a minor as one of its participants, in which the violation is a felony of the fourth degree.

The bill stemmed from a case in Cuyahoga County in which the victims of voyeurism could not be properly protected due to age limitations with the language and definition of minor in the Ohio Revised Code. Sub. HB 68 will remove that limit and allow those innocent victims to be properly protected.

Would like to point out that LSC advised me that they made a change to Sub. HB 68, to the R.C. 2929.13 in the Felony Sentencing because that R.C. section was amended by three other bills (HB 60, HB 110, and SB 97) that became law. The as introduced HB 68 was drafted in the first weeks of the new year before the most current version of the other laws were available. For the Sub. HB 68, the R.C. 2929.13 reflects current law. The substance of the bill was not affected by the update.

Chairman Manning and members of the House Criminal Justice Committee, I am happy to answer any questions. Thank you very much for your consideration.