

Columbus Office

Vern Riffe Center
77 S. High Street, 11th Floor
Columbus, Ohio 43215-6111
Phone: (614) 466-8100
Fax: (614) 719-0005
Email: Rep77@ohiohouse.gov
Web: www.ohiohouse.gov



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Tim Schaffer

State Representative, 77th House District

House Criminal Justice Committee House Bill 327 – Sponsor Testimony Tuesday, September 19, 2017

Chairman Manning, Vice Chair Rezabek, Ranking Member Celebrezze, and members of the House Criminal Justice Committee, thank you for the opportunity to present testimony on House Bill 327.

I would first like to take a moment to thank Joint Sponsor Rep. Kent Smith, whose expertise and experience dealing with internet crimes against children investigations in the Cuyahoga County Prosecutor's Office has been a great asset when working on this legislation.

House Bill 327 will fix a loophole in Ohio law that is allowing dangerous sexual predators to get away with their crimes on children with a "slap on the wrist" and no disincentive against committing these crimes.

You may recognize this legislation as House Bill 405 from last General Assembly, which passed unanimously out of the House in February of 2016, but ran out of time in the Senate. We are hopeful today that you will help support and expedite this much-needed legislation so we can finish the task this time.

By way of background, I introduced a similar bill, Senate Bill 183, in the 127th General Assembly, which some of you voted for. Senate Bill 183 called for mandatory prison time on the first offense for those convicted of importuning.

Through the course of the legislative process, the language of Senate Bill 183 was watered down. The language that ultimately passed into law says that "there is a presumption that a prison term shall be imposed" for first of these offenses.

We hoped that this would give the judicial system enough direction to properly punish these predators who experts tell us often go on to commit progressively more violent and heinous crimes upon children.

We have since learned this is not always the case. In fact, it is the exception.

WBNS 10TV here in Columbus broadcast a story in late 2014 about online sexual predators. They examined all importuning cases in Franklin County from 2010 to mid-September of 2014. I was shocked by the information they uncovered.

Of the 93 offenders charged with importuning and sentenced during that time, only 19 saw any prison time. Another 70 received probation. That means only roughly 20% of all offenders charged with soliciting sex from children went to prison.

Law enforcement has testified that some offenders have admitted to committing the crime as many as 30 times before actually being caught. Unfortunately, it is not always an officer on the other side of a computer screen. Oftentimes it is a child.

What this Bill Will Do:

1. Under the legislation, importuning a child under the age of thirteen remains a third degree felony on the first offense. The judge shall impose a prison term of 9 to 36 months.
2. Importuning a child over the age of 13 but under the age of 16 will remain a fifth degree felony on the first offense.
 - a. If the offender is ten or more years older than the victim, then the judge shall impose a prison sentence of 6-12 months.
 - b. If the offender is *not* ten or more years older than the victim, then the presumption that a prison term shall be imposed that is in current law will be retained.

I have summarized the changes in the table below:

<u>Current Law</u>	<u>New Proposal</u>
<ul style="list-style-type: none"> • Importuning a child under the age of thirteen carries a third degree felony charge on the first offense, with a <i>presumption</i> of a prison sentence, <i>but there is no requirement for a judge to enforce that presumption.</i> • Importuning a child between the age of thirteen and sixteen carries a fifth degree felony charge on the first offense, with a <i>presumption</i> of a prison sentence, <i>but there is no requirement for a judge to enforce that presumption.</i> • Repeat offenders in either case receive a mandatory one-year prison sentence. 	<ul style="list-style-type: none"> • Importuning a child under the age of thirteen will remain a <u>third</u> degree felony on the first offense, carrying a prison term of 9 to 36 months. • Importuning a child over the age of 13 but under the age of 16 will remain a <u>fifth</u> degree felony on the first offense. Additionally: <ul style="list-style-type: none"> ○ If the offender is ten or more years older than the victim, then the judge shall impose a prison sentence of 6-12 months. ○ If the offender is not 10 or more years older than a child victim over 13 but less than 16, then the presumption that a prison term shall be imposed that is in current law will be retained. • Repeat offenders in either case receive a mandatory one-year prison sentence.

While I believe it is prudent for the Ohio Criminal Justice Recodification Committee to examine mandatory sentencing in the Revised Code, I recognize that there is a trend developing against mandatory sentencing. I argue that importuning is an act so heinous and dangerous that there needs to be a strong deterrent. We are not willing to risk the lives of children, and neither are the 32 co-sponsors of the bill.

It is important to note that we are retaining judicial discretion in regard to how long the prison term shall be. We are not locking them up for life and throwing away the key, but we are enacting a serious warning to sex predators.

Law enforcement tells us that prison time is the only effective deterrent for sexual predators of this magnitude.

It is time that we show sexual predators that we will not stand by as they hide behind a computer screen and attempt to molest children.

The legislation is supported by the following:

Internet Crimes Against Children Task Forces in Cuyahoga County

Internet Crimes Against Children Task Forces in Fairfield County

Internet Crimes Against Children Task Forces in Franklin County

Chief Mike Tussey of the Baltimore, Ohio Police Department

Ohio Alliance to End Sexual Violence

Buckeye State Sheriffs' Association

Fraternal Order of Police Ohio

We have also started engaging the Ohio Attorney General's Human Trafficking Task Force for their support as well.

Once again, thank you Chairman Manning for the opportunity to present House Bill 327. Rep. Kent Smith, my Joint Sponsor will now speak and we will be pleased to answer any questions after he finishes his testimony.