



# Office of the Ohio Public Defender

Timothy Young, State Public Defender

## **Testimony in Opposition of HB431 Sexual Exploitation Database Sponsor Representative Abrams and Carfagna**

Chair Lang, Vice Chair Plummer, Ranking Member Leland, and members of the House Criminal Justice Committee, thank you for the opportunity to provide testimony on behalf of the Office of the Ohio Public Defender (“OPD”) in opposition of House Bill 431 (“HB431”). I am Niki Clum, the legislative liaison for the OPD.

As this committee knows, HB431 would create a public registry of individuals who are convicted of promoting prostitution or solicitation. For many, perceptions of prostitution were formed by popular culture. Movies like *Moulin Rouge* and the show *The Cathouse* glorify prostitution. Even Attorney General Yost pointed out that most of the public thinks of prostitution as it was portrayed in the movie “*Pretty Woman*.”<sup>1</sup> What Ohio’s top attorney and this legislature know is that prostitution is often human trafficking. As Attorney General Yost has pointed out, when someone solicits a prostitute, they do not know if that individual is acting on her own freewill or is manipulated and controlled by a trafficker.<sup>2</sup> “The average john is a middle-aged white male, married, with a full time job.”<sup>3</sup> Attorney General Yost is correct that most of these

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<sup>1</sup> Jeremy Pelzer, Ohio AG Dave Yost launches human trafficking summit to build ‘free to freedom’ for victims, *Cleveland.com*, January 9, 2020, <https://www.cleveland.com/open/2020/01/ohio-ag-dave-yost-launches-human-trafficking-summit-to-build-freeway-to-freedom-for-victims.html>.

<sup>2</sup> *A letter from Dave Yost: Human trafficking turns girls into slaves*, On the Job, Criminal Justice Update, October 2, 2019, <https://www.ohioattorneygeneral.gov/Media/Newsletters/Criminal-Justice-Update/Fall-2019/A-letter-from-Dave-Yost-Human-trafficking-turns-gi>

<sup>3</sup> Senator Schaffer and Senator Fedor, Sponsor testimony for SB247, February 2, 2020.

individuals probably do not realize that by patronizing a prostitute, they are furthering her victimization to the benefit of her trafficker.

Proponents of HB431 have been clear that the purpose of this registry is to be an “easy to search state database”<sup>4</sup> designed to shame individuals convicted of these offenses.<sup>5</sup> As I recently testified, OPD opposes public registries because the research is clear that public registries do not make communities safer. In fact, there is a significant amount of research that has found that public registries make communities less safe. Inclusion on a registry makes it harder for individuals to obtain employment or find housing. Researchers have found that a lack of housing and a “transient status seems to be associated with higher sexual recidivism rates” for individuals on sex offender registries.<sup>6</sup> Another study hypothesized that the link between sex offender registries and increased rates of recidivism is due to the personal, professional, financial, and social consequences of making registries public causing crime-free lifestyles to be unobtainable for registrants.<sup>7</sup> As one of the researchers put it, “[w]e have an anti-reentry policy for sex offenders.”<sup>8</sup> Since the purpose of this registry is to make this

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<sup>4</sup> Cornelius Frolik, *Buyer's Remorse ad program reached thousands last year in effort to expose men who buy sex in Dayton*, Dayton Daily News, February 2, 2020, <https://www.daytondailynews.com/news/crime--law/ohio-wants-prostitution-registry-dayton-already-has-johns-list/9kdQTNwIMX6bZpzL3btgpO/>.

<sup>5</sup> Randy Ludlow, *Shame as deterrence: Bill would create online registry of Ohio's 'johns'*, The Columbus Dispatch, January 21, 2020, <https://www.dispatch.com/news/20191106/shame-as-deterrence-bill-would-create-online-registry-of-ohio-johns/1?rssfeed=true>.

<sup>6</sup> Steven Yoder & Commentary, *New evidence says US sex-offender policies are actually causing more crime*, Quartz, December 21, 2016, [https://qz.com/869499/new-evidence-says-us-sex-offender-policies-dont-work-and-are-actually-causing-more-crime/#:~:targetText=They%20found%20that%20the%20average,per%2010%2C000%20people%20to%209.3.](https://qz.com/869499/new-evidence-says-us-sex-offender-policies-dont-work-and-are-actually-causing-more-crime/#:~:targetText=They%20found%20that%20the%20average,per%2010%2C000%20people%20to%209.3.;);

quoting *The Predictive Validity of Static-99R for Sexual Offenders in California: 2016 Update*, California Department of Justice & Public Safety Canada, July 13, 2016, [http://www.saratso.org/docs/ThePredictiveValidity\\_of\\_Static-99R\\_forSexualOffenders\\_inCalifornia-2016v1.pdf](http://www.saratso.org/docs/ThePredictiveValidity_of_Static-99R_forSexualOffenders_inCalifornia-2016v1.pdf).

<sup>7</sup> See J.J. Prescott & Jonah E. Rockoff, *Do Sex Offender Registration and Notification Laws Affect Criminal Behavior?* 1 J.L. ECON 54, 15 (2008), <http://www.nber.org/papers/w13803.pdf>.

<sup>8</sup> Steven Yoder & Commentary, *New evidence says US sex-offender policies are actually causing more crime*, Quartz, December 21, 2016; quoting J.J. Prescott.



information as public as possible, logic dictates that individuals on the registry will suffer the same fate as those on sex offender registries.

HB431 allows individuals to be removed from the registry before the automatic five-year removal when their conviction is “overturned, expunged, or sealed...”<sup>9</sup> The individual must file an application with the Attorney General’s Office for removal.<sup>10</sup> If the application is approved, only then is the individual removed from the registry.<sup>11</sup> The individual should not have to take the additional steps of submitting an application and getting approval to be removed from the registry. When the conviction is overturned, expunged, or sealed, the court should inform the Attorney General’s Office, and removal from the registry should be automatic. When an individual’s record is sealed the court is required to send notice to BCI and “any public office or agency that the court knows or has reason to believe may have record of the case.”<sup>12</sup> If the court is sealing a compelling prostitution or solicitation case, the court knows the Attorney General’s Office has a record of the offense as inclusion on this registry is mandatory. Additionally, the Ohio Revised Code specifies that an order of sealing “applies to every public office or agency that has a record of the case that is subject of the order, regardless of whether it receives notice of the hearing...”<sup>13</sup> Therefore, the Attorney General’s Office is already subject to the order for sealing regardless of whether the individual files an application. Requiring the individual to submit an application that must be approved just adds superfluous steps and creates delay in violation of the sealing order.

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<sup>9</sup> Lines 51 – 52.

<sup>10</sup> Lines 54 – 56.

<sup>11</sup> Lines 56 – 60.

<sup>12</sup> R.C. 2953.53(A)

<sup>13</sup> R.C. 2953.53(C)



The better approach to ending the demand for human trafficking in Ohio would be invest in “john schools.” Individuals can be court ordered into a “john school” after being convicted of a prostitution related offense. Through these programs, individuals are educated about the realities of prostitution. John schools disillusion attendees of popular culture’s portrayal of prostitution and educate offenders on the brutal practice of human trafficking. Educating offenders is a more sensical approach to reducing the demand than making impossible for Ohioans to obtain housing and employment.

Proponents of HB431 have stated that a public registry will make it more likely that the “mothers, wives, children, bosses and other community members” will learn of the offender’s conviction.<sup>14</sup> Put yourselves in the position of an individual who learns their spouse was convicted of a prostitution related offense. This would obviously be a difficult time for any family. Perhaps the marriage will end. If separating parents is not hard enough for a child, the offender’s children may also be teased and mocked at school because the whole community will know of the conviction. Perhaps these married individuals will decide that they want to stay together and repair their relationship. Instead of allowing it to be a private decision among spouses, HB431 makes it a community decision. It is not hard to imagine that a spouse may be subject to opinions and comments from others in the community every time they leave the house. HB431 will punish more than just offenders, it will punish their family.

Historically, we blamed the victim — the prostitute — for prostitution.<sup>15</sup> We now better understand the true nature of prostitution. We should continue to educate the public about

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<sup>14</sup> Cornelius Frolik, *Buyer’s Remorse ad program reached thousands last year in effort to expose men who buy sex in Dayton*, Dayton Daily News, February 2, 2020, <https://www.daytondailynews.com/news/crime--law/ohio-wants-prostitution-registry-dayton-already-has-johns-list/9kdQTnwIMX6bZpzL3btgpO/>.

<sup>15</sup> Brandon Addeo, *Proposed legislation targets human traffickers, people who buy sex*, Sandusky Register, November 8, 2019, <https://sanduskyregister.com/news/25141/proposed-legislation-targets-human-traffickers->



realities of human trafficking in order to reduce demand. However, registries like the one proposed in HB431 destroy opportunities for individuals to live as law-abiding citizens and punish their innocent family members. Ohio is not made better or safer by making it impossible for capable people to obtain adequate housing, employment, and care for their family.

Thank you for the opportunity to provide testimony. I am happy to answer any questions at this time.

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people-who-buy-sex/, paraphrasing Tracy McGinley, Director of Bowling Green State University's Criminal Justice Program.



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