**Sponsor Testimony for Sub. HB 68**

**Representative Marlene Anielski**

**Senate Judiciary Committee**

**September 19, 2017**

Thank you Chair Bacon, Vice-Chair Dolan, Ranking Member Thomas and members of the Senate Judiciary 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 fully supported by the Ohio Prosecuting Attorneys Association. Last GA, a previous version, House Bill 439, 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 Sub. HB 68 do? It alters the revised code 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, such as dementia or Alzheimer’s, or because of advanced age.

Those who violate theses sections would be guilty of pandering obscenity involving a minor or impaired person, pandering sexually oriented matter involving a minor or impaired person, or illegal use of a minor or impaired person in a nudity-oriented material or performance. Violations involving minors are second degree felonies, and violations involving impaired persons are third degree felonies, except that a violation of 2907.321(A)(5), buy, procure, possess, or control any obscene material that has a minor or impaired person as one of its participants is a fourth degree felony, which is the same penalty as under the current law in the case of a minor victim.

The bill stems from a case in Cuyahoga County in which elderly persons were the victims of voyeurism. The offenders could only be prosecuted for misdemeanors because these sections under current law apply only in cases where the victims are minors. Sub. H.B. 68 will include impaired persons in these statutes and allow these innocent victims to be properly protected

Chairman Bacon and members of the Senate Judiciary Committee, I am happy to answer any questions. Thank you very much for your consideration.