



Office of the Ohio Public Defender

Timothy Young, State Public Defender

Testimony in Support of SB47 Sex Offender Registry Changes Sponsor Senator Eklund

Chairman Eklund, Vice Chair Manning, Ranking Member Thomas, and members of the Senate Judiciary Committee, thank you for the opportunity to testify on behalf of the Office of the Ohio Public Defender in support of Senate Bill 47.

SB47 will allow a narrow category of individuals to request the court for a reclassification or termination of their sex offender registry requirements. If the court terminates the requirement that the individual register with the sex offender registry, then that person would be eligible to request the court to seal their record. Under the bill, only individuals who meet the six criteria delineated are eligible for reclassification or termination. Among the requirements, the individual who, was under the age of 21 at the time of the offense, was convicted of having consensual sex, free from coercion, force, or threat of force, with a minor age 14 or older. The bill makes clear that eligible individuals must be found by the sentencing court to be a low risk of reoffending based on a presentencing investigation and a validated risk assessment tool. Additionally, the individual must have completed all the court ordered conditions of community control sanctions and have not committed any additional sex or child-victim offense.

Individuals who are convicted of Unlawful Sexual Conduct with a Minor have to register and comply the Sex Offender Registration Notification Law for 10 – 25 years depending on their age and the age of their sexual partner at the time of the offense. A study of individuals on the Wisconsin sex offender registry found that 83% reported that they had been excluded

from a residence, and 57% reported they had a loss of employment as a result of being on the registry. Additionally, 77% reported threats and harassment, and 67% reported emotional harm to their family.¹ Frequently, individuals on the Ohio sex offender registry suffer the same fate as those in the Wisconsin study. They are feared or harassed, and their families often suffer these consequences along with the registrant. SB47 will provide relief from this 10 – 25-year penalty, that is often far too harsh of a penalty for an act of consensual sex between two young people.

Requiring these young people to register as a sex offender for 10 - 25 years ignores years of guidance from social science and the courts. The U.S. Supreme Court has acknowledged that juveniles' personalities are not as "well formed" as adults², and they have greater capacity for change.³ Ohio Supreme Court Chief Justice O'Connor wrote that, "minors are less mature and responsible than adults...they are lacking in experience, perspective, and judgment..."⁴ Studies have confirmed the insight of these courts and justices finding that juveniles who commit sexual offenses have low rates of recidivism, some studies finding recidivism rates as low as between 7 – 14%.⁵

The individuals eligible for relief under SB47 would have been young adults, age 18 - 20, at the time of their offense. However, in terms of brain development, these individuals are just like the minors, as the brain is not fully mature until the around age 23 or later. Until that

¹ See Richard G. Zevitz & Mary Ann Farkas, *Sex Offender Community Notification: Assessing the Impact in Wisconsin*, National Institute of Justice (2000) <https://www.ncjrs.gov/pdffiles1/nij/179992.pdf>

² *Roper v. Simmons*, 543 U.S. 551, 570, 125 S.Ct. 1183 (2005).

³ *Graham v. Florida*, 560 U.S. 48, 77, 130 S.Ct. 2011 (2010).

⁴ *State v. Aalim*, 2017-Ohio-2956, ¶109 (O'Connor, dissenting), quoting *State v. Long*, 138 Ohio St.3d 478, ¶33 (O'Connor, concurring).

⁵ Lobanov-Rostovsky, Christopher, *Recidivism of Juveniles Who Commit Sexual Offenses*, Sex Offender Management Assessment and Planning Initiative Research Brief, U.S. Department of Justice, Office of Justice Programs, Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, July 2015, <https://www.smart.gov/pdfs/JuvenileRecidivism.pdf>; see also Justice Policy Institute, *Youth Who Commit Sex Offenses, Facts and Fiction*, http://www.justicepolicy.org/images/upload/08-08_FAC_SORNAFactFiction_JJ.pdf.



time, young people have a weaker ability to control their impulses and make good decisions.⁶ SB47 attempts to provide relief to individuals who, because of the biology of their age, were less capable of controlling their impulses, who are at low risk of reoffending, and who have a great capacity to learn from their mistake.

Since SB47 grants relief from the sex offender registry requirements to individuals who have been found to be low risk of reoffending, the bill will also reduce the burden on local sheriff's offices by freeing up resources to focus on high-risk individuals instead of expending resources maintaining low-risk individuals on the registry.

SB47 is a common-sense bill that will provide much needed relief to deserving individuals. Thank you for the opportunity to speak today before your committee. I am happy to answer questions at this time.

⁶ Nancy Guberti, M.S., C.N., *5 Stages of Human Brain Development*, <http://nancyguberti.com/5-stages-of-human-brain-development/>

