

**To: Senate Judiciary Committee**  
**From: Kevin Werner, Policy Director**  
**Date: November 9, 2020**  
**Re: Opponent Testimony for Substitute House Bill 431**

Chairman Eklund, Vice-Chair Manning, Ranking Member Thomas and members of the committee, thank you for the opportunity to present opponent testimony regarding Substitute House Bill 431. The Ohio Justice & Policy Center, a nonprofit law firm whose mission is to promote fair, intelligent, and redemptive criminal justice systems, has concerns about this database, its purported ability to lower demand for human trafficking and the collateral sanctions that will emerge as a consequence of the bill.

To be clear, OJPC is dedicated to fighting human trafficking, sexual exploitation, or any sexual violence against people. Several OJPC attorneys dedicate their full-time legal practice to serving clients who are survivors of trafficking, and we partner with anti-trafficking organizations statewide. OJPC is grateful to the bill sponsors and individuals at the Ohio Attorney General's office who are dedicated to addressing the scourge of human sex trafficking.

Our concerns about Substitute HB431 are the following:

**A public registry or database is not an evidence-based practice.** Many practices, like mental health treatment for victims of human trafficking, are supported by research and academia, as well as by the law enforcement community, by organizations working with trafficking survivors and by the survivors of trafficking themselves. Based on OJPC's research, OJPC's conversations with many clients who are survivors of trafficking, and OJPC's conversations with many community partners serving survivors, we did not find evidence or support for this registry. To date, we are unaware of any state that has implemented a sexual exploitation database that directly led to decline in the demand for sex paid for by johns or made in exchange for something of value. Earlier testimony cited that Florida began using a similar database, but it is too soon to know its effects. Instead, there is an abundance of scholarship indicating that public registries do not make communities safer,<sup>1</sup> and in fact can cause greater recidivism by the registered person.<sup>2</sup> Specifically, registries create such significant barriers to employment, housing, and pro-social community relationships, causing the registered person to become destabilized and making him more likely to participate in illegal and anti-social behavior.<sup>3 4 5</sup>

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<sup>1</sup> Levenson, J.S., & D'Amora, D. (2007). Social policies designed to prevent sexual violence: The Emperor's new clothes. *Criminal Justice Policy Review*, 18(2), 168-199.

<sup>2</sup> Prescott, J. J. "Do Sex Offender Registries Make Us Less Safe?" *University of Michigan Law School, Regulation* 35, no. 2 (2012): 48-55.

<sup>3</sup> Frenzel et al. "Understanding collateral consequences of registry laws: An examination of the perceptions of sex offender registrants" *Justice Policy Journal*, Volume 11, No. 2, Fall 2014.

<sup>4</sup> Zevitz, R. G., & Farkas, M. A. (2000). Sex offender community notification: Managing high risk criminals or exacting further vengeance? *Behavioral Sciences & the Law*, 18(2-3), 375-391.

<sup>5</sup> Tewksbury, Richard. 2005. Collateral Consequences of Sex Offender Registration. *Journal of Contemporary Criminal Justice* 21:67-81.



## OHIO JUSTICE & POLICY CENTER

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**There are better alternatives.** Rather than creating what others—proponents and opponents alike—have called a “shame” database, OJPC asks Ohio’s leaders to take a comprehensive and holistic approach to combatting sex trafficking that is rooted in trauma-based care and programs for survivors and offenders. We also believe that Ohio’s response to sex trafficking should be one that holds wrongdoers accountable —meaning they stop supporting sex-trafficking economies. This method incorporates education and programs as a means to deter the demand. Expanding in-depth education programs for “johns,” well-beyond the short online classes that are often used today, is an appropriate place to invest resources. Another approach may be to require violators to attend counselling programs designed to help violators understand the traumatic impact their actions have on a person who is being trafficked. Additionally, to combat human trafficking, resources for victims are a priority. For example, we know that often housing is an issue for people caught in trafficking rings. Victims stay in those situations because they have nowhere to go that is safe and where they can begin rehabilitation. Resources to prevent sex trafficking may be better utilized for survivors—not by creating a public database—but by finding ways to make safe and affordable housing more accessible to people who are being trafficked, trying to escape trafficking or who have survived trafficking.

**Finally, the tactics in this bill—as well-meaning as they are—will likely do lasting harm that far exceeds any potential benefits.** Many of OJPC’s clients made criminal mistakes in the past and are on the long road to recovery from those mistakes. We know all too well—because of our clients’ experiences—that past mistakes can create barriers to productive community integration, in a way that is counterproductive and more punitive than rehabilitative. There is already significant punishment associated with promoting prostitution, which was recently further increased when Senate Bill 5 went into effect in March 2020. In 2014, the “End Demand” Act increased penalties for soliciting prostitution, where a person solicited a minor or a developmentally-disabled person, and also required some people to register as sex offenders after a soliciting conviction. As a result, under R.C. 2950.01(A)(14), people convicted of this charge may already be on a public registry, with its many punishing consequences. In all cases, people who are convicted of soliciting face criminal records and potential incarceration and fines. Further punishment through additional, costly shaming mechanisms, is not a good use of state funds and law enforcement hours at best; at worst, it causes harm. We strongly support accountability for past crimes and mistakes, but we also have to find the road to redemption and the road to healing.

On the other side of the coin, we should acknowledge the longer-lasting barriers that will be created, even for individuals who may have convictions overturned implications

**Moreover, a large part of this harm is borne by innocent families.** A nine-year old child whose parent engages in solicitation is not the intended target of this legislation. But when the 9-year old’s life is irreversibly altered because his parent made a terrible choice (potentially exploiting a vulnerable trafficking victim), and that parent subsequently loses employment, then the family home, and becomes the outcast of the community, whose marriage and relationships then fall apart, the result is devastating to that bystander child. When neighborhood children cannot play with this child and when adult neighbors ostracize his innocent parent, the harm is borne by innocent people. The likelihood of lasting psychological



and emotional damage is foreseeable. The better outcome is for the victim of trafficking to have access to the supports, housing, and recovery services needed while and the offending “john” receives mandated education through “john school” and trauma-based impact counselling.

Substitute House Bill 431 attempts to curb the demand that drives people into trafficking and keeps vulnerable victims in states of poverty, addiction, and sexual exploitation, without hope. No one supports that set of circumstances. This is why Ohio has to take a more comprehensive and trauma-based, educational approach to addressing sexual exploitation and trafficking than the bill offers. We urge the bill sponsors and proponents to continue their efforts to address human sex trafficking in the most productive ways, but not by creating a database that will be less effective than victims and survivors of trafficking need and deserve.

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