



Office of the Ohio Public Defender

Timothy Young, State Public Defender

Interested Party Testimony Regarding HB459 Volunteering After Certain Child-Based Convictions Sponsors Representatives LaRe and Cutrona

Chair LaRe, Vice Chair White, Ranking Member Leland, and members of the House Criminal Justice Committee, thank you for the opportunity to provide interested party testimony on behalf of the Office of the Ohio Public Defender (“OPD”) regarding House Bill 459 (“HB459”). I am Niki Clum, the Legislative Policy Manager for the OPD.

OPD appreciates that the bill has been limited to prohibiting volunteering “in a capacity affording extensive contact with minor children.”¹ OPD also appreciates that the first violation results in an injunction and does not become a misdemeanor of the first degree until the second violation.² This is a reasonable approach to achieving the goals of the bill.

That being said, OPD has a few concerns with the bill. First, and most importantly, OPD is opposed to all public registries. Despite their purpose, the research is clear that public registries do not make communities safer. The National Institute of Justice (NIJ) supports research projects to examine public sex offender registries, more specifically the effects of sex offender registration, notification, and residency restriction laws. NIJ notes that while these laws are popular, there “has been very little evidence of their effectiveness in reducing crime.”³ Studies of sex offender registries show that mere presence on public lists, like the sex offender registry, can lead to assumptions by the community that the individual is dangerous and should be shamed and ostracized.⁴

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.”⁵ 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.⁶ As one researcher put it, “[w]e have an anti-reentry policy for sex offenders.”⁷

¹ Lines 555 – 556.

² Lines 770 -772.

³ National Institute of Justice – Sex Offender Registration, Notification, and Residency Restrictions www.nij.gov/topics/corrections/community/sex-offenders/pages/registration-notification.aspx

⁴ 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>

⁵ Steven Yoder & Commentary, *New evidence says US sex-offender policies are actually causing more crime*, Quartz, December 21, 2016; 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.

⁶ 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>.

⁷ Steven Yoder & Commentary, *New evidence says US sex-offender policies are actually causing more crime*, Quartz, December 21, 2016; quoting J.J. Prescott.

The information available to the public through the sex offender registry does not include context for each person who is included. The registry does not include information about whether that person worked hard to rehabilitate and improve themselves. Regardless of the circumstances surrounding an individual's admission to the registry, being on the list will cause the public to assume those people should be feared and loathed. These types of misconceptions will lead to collateral consequences that continue to punish the individual and their family. The sex offender registry destroys opportunities for individuals, who have paid their debt to society, to live and find employment as law-abiding citizens. Ohio is not made better or safer by making it impossible for capable people to obtain adequate housing and employment.

OPD's second concern with HB459, is that the prohibition is for the person's life. The bill applies to individuals who are Tier II or Tier III registrants. Tier III is for life; however, Tier II is for 25 years. Even after the person has completed their sentence and completed their registration requirements for 25 years, they still cannot volunteer in a capacity that has extensive contact with children. Most people age out of criminal behavior,⁸ making a lifetime restriction a waste of government resources. People are capable of great rehabilitation and reform. Yet, HB459 continues to bar these individuals for life from volunteering with their child's or grandchild's school, teams, or clubs. This lifelong restriction punishes the families of these individuals who have done nothing wrong.

As I mentioned before, the first violation of HB459 results in an injunction. The second violation is a misdemeanor of first degree, the third is a felony of the third degree (F3), and a fourth is a felony of the first degree (F1). While OPD appreciates that the bill wants a strict penalty for someone who has allegedly violated the law three and four times, making a nonviolent victimless status offense a F3 or F1 demeans the seriousness of other F3s and F1s. Other F3s include Fleeing and Eluding and Aggravated Vehicular Homicide. Other F1s include Felonious Assault of a police officer and Kidnapping. It bares asking if repeated violations of this status offense are on par with these other offenses that involve dangerous behavior, violence, and death. OPD suggests the more appropriate penalties for an alleged third violation would be a felony of the fifth degree. A more appropriate penalty for an alleged fourth violation is a felony of the fourth degree.

OPD shares the bill sponsor's goal of keeping Ohioans, especially children, safe. But the evidence is clear that the sex offender registries do not make our communities any safer. Employment is the number one reducer of recidivism. However, registries make it harder, if not impossible, for individuals to find employment and housing. These registries punish not only the registrant, but also their friends, employers, and families. The lifetime prohibition in HB459 against volunteering with activities that involve children continues to punish the families of individuals who have served their sentence and paid their debt to society. Thank you for the opportunity to testify as an interested party.

⁸ Matt Ford, *What Caused the Great Crime Decline in the U.S.?*, The Atlantic, April 15, 2016, <https://www.theatlantic.com/politics/archive/2016/04/what-caused-the-crime-decline/477408/>; citing, *The Growth of Incarceration in United States, Exploring Causes and Consequences*, Committee on Law and Justice, National Research Council of the National Academies.

