



**House Bill 289 Opponent Testimony**

Zachary Miller, Legislative Policy Manager

House Criminal Justice Committee

May 21, 2024

Chair Abrams, Vice Chair Williams, Ranking Member Brown, and members of the House Criminal Justice Committee:

On behalf of the Office of the Ohio Public Defender (OPD), thank you for the opportunity to submit opponent testimony on House Bill 289. The OPD provides legal representation to children who are indigent and alleged to be delinquent, and we believe HB 289 will have unintended adverse consequences on youth across the state of Ohio.

The OPD's primary concerns with HB 289 relate to the provisions that make the offense of "disseminating matter harmful to juveniles" a "sexually oriented offense," thereby making one who violates the offense a Tier I Sex Offender/Child-Victim Offender. While we appreciate the bill's sponsors' concerns with public safety, our position is that this language will unnecessarily result in children and young adults being prosecuted and forced to register as sex offenders for acts that are not the targeted conduct of this legislation.

The offense of "disseminating matter harmful to juveniles," as currently codified under Ohio Revised Code (R.C.) 2907.31, was enacted to protect children from being exposed to obscene material from persons with malicious intentions. The statute's broad language, however, does not contain any exceptions for youth who are both peers in age (sometimes referred to as a Romeo/Juliet clause) and are engaging in the consensual exchange of the "obscene" material. Unlike the offense of pandering (R.C. 2907.321), which protects child victims, R.C. 2907.31 simply criminalizes anyone who gives legal, consensually made, but "obscene," materials to juveniles. The statute's failure to distinguish when a child is and is not a victim of the conduct when both parties are juveniles, coupled with the provisions of HB 289, will unnecessarily increase the number of children who would be registerable for normative adolescent behavior.



For example, HB 289 could result in teenagers being added to the registry because they consensually exchanged nude photos with each other. We recognize the state has an interest in regulating this type of conduct as it relates to minor children, however, the penalty of registering as a Tier I Sex Offender/Child-Victim Offender, which has lifelong consequences for children and teenagers, is neither proportionate to the offense in certain instances, nor is it effective in deterring the behavior and promoting public safety.

Previous examinations of sex offender registries have been conducted by the Ohio Criminal Sentencing Commission and Ohio Recodification Committee, which comprised of judges, prosecutors, victim’s advocates, sheriffs, and law enforcement. Both groups recommend that the General Assembly revise tier-based registration and/or lower certain offense tiers, return to more risk-based assessment rather than offense based, offer opportunities to lower registration requirements and de-registration after a period of time and success, and limit and/or eliminate residency requirements. These recommendations align with research that overwhelmingly concludes that the harm to a minor child as a result of being forced to register far outweighs the zero positive outcomes for the child or public safety. For a minor, registration actually increases the likelihood of becoming a victim of a sexually oriented offense themselves.<sup>1</sup> Furthermore, a child who is on the registry is less likely to complete school, will have increased rates of suicidal ideations, and will be at higher risk of homelessness.<sup>2</sup> To date, the majority of studies that have examined the impact of sex offender registration databases have consistently and conclusively found that registration does little to reduce sexual recidivism or prevent sexual abuse, whether applied to youths or adults.<sup>3</sup>

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<sup>1</sup> Letourneau, E.J., Harris, A.J., Shields, R.T., Walfield, S.M., Ruzicka, A.E., Buckman, C., \*Kahn, G.D., & Nair, R. (2018). Effects of juvenile sex offender registration on adolescent well being: An empirical examination. *Psychology, Public Policy, and Law*, 24, 105-117.

<sup>2</sup> *Raised on the Registry: The Irreparable Harm of Placing Children on Sex Offender Registries in the U.S.*, published by Human Rights Watch (2013), p. 26, 56. (ISBN: 978-1-62313-0084), available: [https://dam.assets.ohio.gov/image/upload/v1715741877/opd.ohio.gov/Defense%20Training/2024%20Youth%20Defense%20Leadership%20Summit/Wednesday/Human\\_Rights\\_Watch\\_-\\_Raised\\_on\\_the\\_Registry.pdf](https://dam.assets.ohio.gov/image/upload/v1715741877/opd.ohio.gov/Defense%20Training/2024%20Youth%20Defense%20Leadership%20Summit/Wednesday/Human_Rights_Watch_-_Raised_on_the_Registry.pdf)

<sup>3</sup> Letourneau, E. J., Levenson, J. S., Bandyopadhyay, D., Armstrong, K. S., & Sinha, D. (2010b). Effects of South Carolina’s sex offender registration and notification policy on deterrence of adult sex crimes. *Criminal Justice and Behavior*, 37(5), 537–552; and Letourneau, E. J., Shields, R. T., Nair, R., Kahn, G., Sandler, J. C. & Vandiver, D. M. (2019). Juvenile Registration and Notification Policies Fail to Prevent First-Time Sexual Offenses: An Extension of Findings to Two New States. *Criminal Justice Policy Review*, 30(7), 1109-1123.

Again, the OPD understands and appreciates the sponsors' intent behind HB 289, however, we remain concerned the bill's addition of R.C. 2907.31 to the list of sexually oriented offenses without any additional exceptions will result in more children and teenagers being forced to register as Tier I Sex Offenders/Child-Victim Offenders for consensual activity that teens routinely engage in. The OPD urges this committee to consider a more targeted and measured approach that protects children from malicious acts but does not commit minor children and young adults to a life-altering penalty for typical adolescent conduct. Unless HB 289 is amended to reflect this approach, the OPD opposes HB 289.

Sincerely,



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