Senator Jane Timken

Sponsor Testimony: Senate Bill 393

Vice Chair Reynolds, Ranking Member Hicks-Hudson, and members of the committee thank you for providing the opportunity to deliver sponsor testimony on Senate Bill 393 to increase penalties for certain sexually oriented offenses involving juvenile victims.

This legislation is the result of multiple revisions and is the culmination of bill drafts of both my office, Senator Blessing, as well as my joint-sponsor, Chairman Manning and his staff. For the purpose of my testimony today, I will focus on the policy changes stemming from my initial draft and Chairman Manning will testify in detail about provisions from his drafts.

Last summer, I was informed by a local police chief that many offenders who are convicted of selling or otherwise distributing or possessing large quantities of child sex abuse material were not receiving a harsher sentencing than those with lesser quantities of such material. I was alarmed to learn that in many jurisdictions, convicted offenders are often back on the street less than 48 hours after arrest and upon conviction, rarely see the inside of a prison cell. Upon further review of the Ohio Revised Code, my office in consultation with the Ohio Prosecuting Attorneys Association identified areas of the law which warrant revision.

The purpose of this bill is to update relevant sections of the revised code to ensure offenders who create, distribute, offer for sale, or otherwise promote the dissemination of such material receive harsher sentencing based off a variety of factors. Those factors include the quantity of material, the subject matter of the material, and age of the victim.

For example, under current law ORC 2907.321 – Pandering obscenity involving a minor or impaired person; an offender in violation of division (A) (1) which is the creation of the material, (2) Promotion, (3) Create/Direct a performance, (4) Advertise, and (6) transport into the state is charged with a felony of the second degree if the material involves a minor. A violation of division (A)(5), possession of the material, is a felony of the fourth degree, but steps up to a felony of the third degree for repeat violations.

Under this legislation, a violation of division (A) (1), (2), (3), (4), and (6) is still a felony of the second degree, however, we added “artificially generated depiction of a minor” to the base charge and added an enhancement if the offense involves a minor under the age of 13, an

artificially generated depiction of a minor under the age of 13, or if the material depicts an offense of violence.

Additionally, for a violation of (A)(5), possession, we included a similar mandatory sentence for a violation that involves a minor under the age of 13 and offenses of violence, as well as a specification that is triggered if the offender possesses 100 or more images, which requires a mandatory five-year prison term to be served consecutively to the base charges. If the nature of the offense triggers the enhancement, the charge bumps to a felony of the third degree.

It is also important to note that under current law, Ohio does not properly account for video of child sex abuse material. This legislation adds language to address that shortcoming by equating one video with 75 images which is the current federal standard. If an offender is in possession of more than one video, it would trigger the enhancement for having over 100 images.

Similar enhancement language was included in ORC 2907.322 - Pandering sexually oriented matter involving a minor or impaired person - and ORC 2907.323 - Illegal use of minor or impaired person in nudity-oriented material or performance.

Additionally, this legislation updates Ohio's law on bestiality. Under current law, the act of bestiality and the sale or purchase of an animal with the intent to engage in sexual conduct with an animal is a misdemeanor of the second degree. The law does not account for the creation, reproduction, or publishing of bestiality material.

As such, this legislation makes the following changes to ORC 959.21 and 959.99:

- A violation of Division (B) - The actual act of bestiality or the sale or purchase of an animal with the intent that it be subjected to sexual conduct, is now a felony of the fifth degree.
- A violation division (C) -Knowingly organizing, aiding, or abetting bestiality is a misdemeanor of the first degree.
- A violation of division (D) – knowingly creating, reproducing, or publishing bestiality material is a misdemeanor of the second degree
- A violation of division (E) – Possession of bestiality material is a misdemeanor of the third degree.

In short, this legislation adjusts sentencing requirements for offenders who create, sell, disseminate, and possess child sex abuse material and makes common sense updates to bring Ohio in line with federal standards to ensure the most severe offenders receive proportional sentencing.

Vice Chair Reynolds, Ranking Member Hicks-Hudson, and members of the committee, thank you, again, for the opportunity to provide testimony on this important piece of legislation. I am happy to answer any questions the committee may have. But first, I will turn the microphone over to my Joint-Sponsor, Chairman Manning.