**Proponent Testimony S.B. 235: Youthful Offender Rehabilitation and Relief**

Chairman Bacon, Vice Chairman Dolan, and Members of the Senate Judiciary Committee: My name is Barbara Wright with Families and Individuals for Reform (FAIR), and I appreciate the opportunity to testify in support of Senate Bill 235. S.B. 235 would permit a judge to modify or terminate sex offender registry for a narrow group of young offenders 18 to 20 who had consensual sex with a minor 14 years or older. The bill would only apply to those who were under 21 at the time of the offense, whose conduct was consensual and who have had a clean record since.[[1]](#endnote-1) The judge could only make changes after the judge holds a hearing and determines that the offender has been rehabilitated; but for offenders who meet that narrow test and whose lives show they have been rehabilitated, the judge could downgrade or terminate their sex offender registry requirements.

This is a very narrow exception—only 200 individuals would be eligible.[[2]](#endnote-2) I am here today to talk about the unintended consequences of registration and the capacity of these kids for rehabilitation.

In the past two years since I started FAIR, I’ve seen first-hand how the anguish and obstacles caused by registration can ruin the lives of these kids, their families, and even in some cases, roommates or friends.[[3]](#endnote-3)

Sex offenders have been called “moral lepers;” as a result, these kids will experience joblessness, homelessness, harassment, physical violence and even property damage[[4]](#endnote-4)…all for a mistake they made before they were old enough to buy a beer.

Most people see the label “sex offender” and assume the worst. They don’t remember what it was like to be young and stupid. They also assume that if a person is registered, he is a danger to society. Most people don’t realize that registration is based upon the offense, not the facts.[[5]](#endnote-5) So while a judge has wide latitude in sentencing, he has no discretion whether to require registration, or for how long.[[6]](#endnote-6)

In the case of these kids, a judge found them to be a low risk to society, and sentenced them to probation. They completed the terms of probation, and have been rehabilitated. But they will still be required to register for 25 years,[[7]](#endnote-7) the same length of time as a dangerous felon. This one-size-fits-all justice treats an 18 year old the same as a 48 year old. S.B. 235 would level the playing field, and allow a judge to decide if these kids deserve to be removed from the register. These kids broke the law, and they deserve to be punished; but S.B. 235 would let the judge ensure that the punishment fits the crime.

Evidence shows that delayed brain development results in cognitive, emotional, and social immaturity in adolescents.[[8]](#endnote-8) S.B. 235 is consistent with this evidence and with statutes and case law in 25 other states which provide rehabilitation and relief for persons as old as 24.[[9]](#endnote-9) These states include Michigan,[[10]](#endnote-10) Pennsylvania,[[11]](#endnote-11) and Alabama.[[12]](#endnote-12)

I ask this committee not to allow the worst thing these kids have ever done to define the rest of their young lives. I ask this committee and its honorable members to adopt this legislation to provide these kids with a chance to become contributing members of society.

Thank you for the opportunity to address this committee and its members. I would be happy to answer any questions at this time.

1. “Eligible offender” is defined at lines 84 through 100 of S.B. 235, as subsequently amended, as follows:

   The sentencing court found the offender at low risk of re-offending;

   The sentencing court imposed community control sanctions, or probation;

   The offender was under 21 years of age at the time of the offense;

   The offender has not been convicted of other sex crimes;

   The minor was at least 14 years old at the time of the offense and consented to the act; and

   The offender was not in a “position of authority” over the minor (as defined in AM 2116). [↑](#endnote-ref-1)
2. The potential eligible class as of November, 2016 (calculations based strictly on age and date of conviction) included approximately 756 offenders. A physical check of the sex offender registry on 331 of those names yielded 95 offenders. The percentage of (95 eligible/331 potential=28.7%) was applied to the potential class of 756 for a total estimated class of 217 offenders, not all of whom will meet the narrow eligibility criteria; see Note 1: Eligible Class of Offenders, attached. [↑](#endnote-ref-2)
3. See Note 2: True Stories, attached. [↑](#endnote-ref-3)
4. The SMART Office writes: “…8 percent of sex offenders reported physical assault or injury, 14 percent reported property damage, 20 percent reported being threatened or harassed, 30 percent reported job loss, 19 percent reported loss of housing, 16 percent reported a family member or roommate being harassed or assaulted, and 40 to 60 percent reported negative psychological consequences.” *Sex Offender Management Assessment Initiative Research Brief: Adult Sex Offender Management (U.S. Department of Justice Office of Justice Programs 2015) at page 3*; see Note 3: Consequences of Registration. [↑](#endnote-ref-4)
5. Ohio Revised Code Section 2950.01(F)(1)(b) requires Tier II registration for a felony violation of the unlawful sexual conduct statute at 2907.04, regardless of the seriousness of the offense; see Note 4, attached. [↑](#endnote-ref-5)
6. A violation of the unlawful sexual conduct statute can be a second, third, or further degree felony (Ohio Revised Code Section 2907.04), with a wide range of possible sanctions depending upon the existence of aggravating or mitigating factors; see Note 5, attached. [↑](#endnote-ref-6)
7. Ohio Revised Code Section 2950.06(B)(2) Frequency of Registration; and Section 2950.07 Duration of Registration Requirements; see Note 6, attached. [↑](#endnote-ref-7)
8. “The evidence now is strong that the brain does not cease to mature until the early 20’s in those relevant parts that govern impulsivity, judgment…foresight of consequences, and other characteristics that make people morally culpable…Indeed, age 21 or 22 would be closer to the ‘biological’ age of maturity.” *Adolescence, Brain Development and Legal Culpability (Juvenile Justice Center 2004) at page 2;* see Note 7, attached. [↑](#endnote-ref-8)
9. See Note 8(a): Map of Youthful Offender Rehabilitation and Relief by State, attached; and note 8(b): Summary of Youthful Offender Rehabilitation and Relief by State, attached. Copies of statutes will be provided upon request. [↑](#endnote-ref-9)
10. The Holmes Youthful Trainee Act (“HYTA”) provides a program of rehabilitation for 17-24 year olds, which shall not be a conviction upon successful completion of the program; the Michigan Supreme Court has ruled that successful completion waives the requirement for registration. MCL 762.11 through 762.15 (1966; A. 2015); *People v. Temelkoski*, 307 Mich.App.241 (Mich.App.2014); see attached Notes 9(a) through (f), attached. Nine other states have similar relief (see note 8). [↑](#endnote-ref-10)
11. An individual guilty of sexual conduct with a minor who is between 4 and 8 years older than the minor is not subject to registration. Pa. C.S. 3122.1 (1995; Am. 2012) and Pa. 42 C.S. 9799.14 (2012; Am. 2018); see Notes 10(a) and (b), attached. Eight other states have similar relief (see note 8). [↑](#endnote-ref-11)
12. Alabama provides a petition for removal from the register for a 21 year old not more than 5 years older than his 13 year old partner. Ala. Code 15-20A-24 (1975; Am. 2015), see Note 11 attached. Five other states have similar relief (see note 8). [↑](#endnote-ref-12)