



Ohio Prosecuting Attorneys Association

Louis Tobin
Executive Director
House Bill 459
Proponent Testimony
May 19, 2022

Chairman LaRe, Vice-Chair Swearingen, Ranking Member Leland and members of the House Criminal Justice Committee, thank you for the opportunity to provide proponent testimony on House Bill 459 to create a cause of action for injunctive relief against certain sex-offenders serving as an employer, employee, independent contractor, or volunteer with any person, group, or organization in a capacity that affords extensive contact with children.

Attached to my testimony is story from November 2020 describing a situation in Columbiana County where a man classified as a Tier 3 sex offender, who had been found by a court to have sexually abused six boys between the ages of 7 and 14, opened a candy store. The store also employed a second registered sex offender who had been found guilty of sexually abusing a 5 year old boy. House Bill 459 is intended to address this type of scenario where Tier II or Tier III sex offenders put themselves in a position to groom minor children.

House Bill 459 is not an entirely novel concept in Ohio. Most notably, section 2950.034 of the Revised Code prohibits a person who has been convicted of sexually oriented offense or child-victim oriented offense from establishing a residence or occupying a residential premises within one thousand feet of any school premises or preschool or child day-care. It authorizes a prosecutor or the owner or lessee of the property to seek injunctive relief. Section 2953.36 of the Revised Code prohibits record sealing for most sex offenses. The law also allows employers like schools and day care facilities to inquire about sealed records based on the policy that certain convictions have a substantial relationship to certain employment. All of this is in the name of protecting children.

House Bill 459 is also not a novel concept nationwide as several other states have enacted similar protections for children. In Arkansas it is unlawful for a sex offender who has been assessed as a Level 3 or Level 4 offender under their sex offender registration act to “[e]ngage in an occupation or participate in a volunteer position that requires the sex offender to work or interact primarily and directly with a child under sixteen years of age” or to “[a]ccept work as a self-employed person, an independent contractor, or an employee or agent of a self-employed independent contractor that is to be performed at a privately owned daycare facility when the privately owned daycare facility has in its care a child.”¹ Georgia prohibits certain sex offenders from being “employed by an business or entity that is located within 1,000 feet of an area

¹ Arkansas Code §5-14-129

where minors congregate.”² And California prohibits registerable sex-offenders who were convicted of crime where the victim a minor under 16 from being an “employer, employee, or independent contractor” or acting “as a volunteer with any person, group, or organization in a capacity in which the registrant would be working directly and in an unaccompanied setting with minor children on more than an incidental and occasional basis or have supervision or disciplinary power over minor children.”³

Notably, these other states criminalize this behavior directly. House Bill 459 instead follows the model already established in R.C. 2950.034 mentioned above whereby a prosecutor can seek an injunction against a specified sex offenders who serve in a position as an employer, employee, or independent contractor, or in a position as a volunteer with any person, group, or organization, in a capacity affording extensive contact with minor children.” It becomes a criminal offense only if the activity continues after an injunction has been obtained.

House Bill 459 is narrowly tailored to promote the significant government interest of protecting children. It is intended to prevent or at least reduce opportunities for those sex offenders who present the greatest danger to engage in grooming behavior with children. We support the bill and commend Representative Cutrona and Chairman LaRe for their work on it. We encourage the committee’s favorable consideration. I would be happy to answer any questions.

² Georgia Code §42-1-16

³ California Penal Code §290.95

(/live-stream)

WATCH NOW: 21 News Midday



Mercer

61° (/weather)

NEWS

Many parents outraged after finding out it's legal for a sex offender to open a child and teen centered business

If a convicted sex offender in Ohio wants to start a business that caters to kids, you might think there'd be a problem with that.

Tuesday, November 24th 2020, 11:42 PM EST

Updated: Wednesday, November 25th 2020, 10:09 PM EST

By Janet Rogers



If a convicted sex offender wants to start a business that caters to kids, you might think there'd be a problem with that.

But the state of Ohio has no law that prevents offenders from owning candy stores, roller rinks, a dance studio or a cheerleading business. In our latest watchdog report WFMJ news investigates why there is no law and whether one is needed.

With the pandemic going on and budgets tight, the shop that sells candy and snacks at a reduced price, with its red umbrellas and picnic tables out front called Mr. Seconds Snack Shack looked enticing.

Mindy Jenkins a mom in Salem said, "It's a place for children. I mean there was some toys, stuffed animals, candy, ice cream."

Mindy Jenkins and others describe Ashby Breneman the shop owner as quiet and polite. Jenkins said, "He looks like he's a sweet old man."

Tipped off that Breneman is not what he appears to be, Mindy did a google search on the sweet older looking man. Jenkins said, "What I found was horrible. I found some news articles and I did a search on the Sheriff's sex offender website."

What Mindy found and we confirmed with the New York Division of Criminal Justice Services is that 72 year old Ashby Breneman, Junior, is classified as a Tier 3 Sexually Violent Offender. Tier three is defined as someone who could pose a threat to the community and is at risk to re-offend. Breneman must register with the Sheriff's Office, where he lives every 90 days for life.

In 1992 a judge in New York sentenced then pastor Breneman up to 7 years in prison for sexually abusing and sodomizing a 12 year old boy at a friends home as he recruited boys for his church camp.

In 1991 a court found Breneman sexually abused 6 boys between the ages of 7 and 14 at a Baptist Youth Camp. He was sentenced from 7 to 15 years in prison.

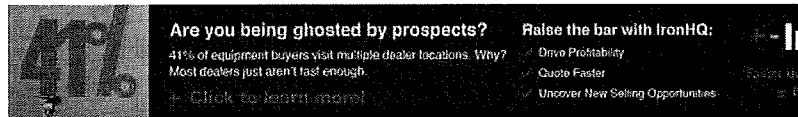
During our investigation we found not just one , but a second registered sex offender working at the snack shop.

The New York Division of Criminal Justice Services classified 53 year old Christopher June as a Sexually Violent Offender, after a court found June guilty of sexually abusing a 5 year old boy in 2004.

June must register his address with the Sheriff's Office where he lives every 6 months for 23 years. He's designated a Tier Two, a medium risk to re-offend.

Jenkins was so alarmed she contacted the Salem police department, but was told there was nothing police could do.

WFMJ news checked with the Salem Police Department, with the Sheriff's Office, the Prosecutor's Office, and the Ohio Attorney General's Office. We were told without laws that impose work restrictions sex offenders no longer under supervision can own or work at a snack shop, toy store, a gym, and become your child's cheer or gymnastics coach.



40%

Are you being ghosted by prospects? 41% of equipment buyers visit multiple dealer locations. Why? Most dealers just aren't fast enough. Click to learn more!

Raise the bar with IronHQ:

- Drive Profitability
- Quote Faster
- Uncover New Selling Opportunities

IronHQ

A former Mercer District Attorney explains people think a law called Megan's law requires sex offenders to stay away from children or bans them from certain jobs but that's a misconception. Attorney Matt Mangino said, "It's merely to let people in the community know where sex offenders reside."

In most states there are some laws in place that ban sex offenders from certain professions such as teaching or being a bus driver. But in Ohio and many states there are few occupational restrictions to prohibit a child sex offender from working at, or owning and operating a child or teen friendly business. The ACLU typically opposes work restrictions for sex offenders who are no longer on probation or parole.

A newly elected state lawmaker concedes they are not always aware of loopholes in laws written and passed decades ago.

State Representative Al Cutrona said, "I was completely shocked and disheartened and it's something that should not continue."

IN 2019 Indiana changed it's laws and imposed ((some))work restrictions after an Indianapolis TV station exposed a registered sex offender could legally offer and provide babysitting services.

In 2015 Pennsylvania strengthened work restrictions and mandatory reporting laws after the Jerry Sandusky sexual abuse scandal.

And In 2010 Georgia passed a law that keeps convicted child sex offenders from working with or volunteering at child and teen centered businesses and organizations.

Not willing to wait for a lengthy process to change the law, Jenkins posted public information on a invitation only community social media site. The message was shared, and shared again. Soon there was little to no business at Mr. Seconds Snack Shack.

The day after we started investigating Breneman closed his shop. We reached out to Ashby Breneman and Christopher June for an interview or comment, but have had no response.

Now Many people we talked with in Salem and Columbiana County want the states laws reviewed and enhanced to help protect children. We talked with several people who were shocked and upset that this could happen, but they did want to do an on camera interview.

Mindy Jenkins who would talk added, "To allow a sex offender who has multiple re-offenses to own a candy store, snacks, cookie store is absolutely crazy and that puts our children at risk. There are other jobs they can do."

State Representative Al Cutrona, 59th District, Ohio who's on the Criminal Justice Committee says he will sponsor legislation to close the loopholes, so in Ohio it's not so easy for registered sex offenders to have unrestricted access to vulnerable kids and teens. He understands sex offenders need to be able to work to pay for housing, food, medical care, and even to pay child support, but says protecting children needs to be our priority.

Cutrona said, "I am working with my legislative aide. He and I are both drafting and crafting some form of legislation that would address the issue and these short comings. if lawmakers don't know about a problem then it doesn't get fixed. I want people to reach out to my office, reach out on social media when they know of problems like this that need attention."

Attorney Matt Mangino emphasized, "We hear of cases where the people who were supposed to do background checks and the background checks fall through the cracks and don't get done. In addition if someone is gong to organize a pickup game of basketball a criminal background check won't be required. Sex offender registries that are kept in every state and in a national database are another tool for parents to check out who is around their children."

State laws and classifications of sex offenders vary from state to state. In the Ohio Sex Offender registry you can even put in a phone number, and it will let you know if that number comes back to a registered se offender, It will not tell you the persons name, but you are instructed to contact your Sheriff's Office if that happens.

The information from the state and national sex offender databases all have notices that information is not to be used to protect the public only, and prior to using them you must click on the website that states you agree not to use the information to harass or commit a crime against the offender or his or her family.

We will be following the legislative process in the new year and keep you informed on it's progress.