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Sponsor Testimony – H.B. 295 – The Innocence Act

Chair Abrams, Vice Chair Williams, Ranking Member Brown, and esteemed colleagues of the House Criminal Justice Committee – thank you for allowing me to speak about House Bill 295, the Innocence Act.

Does anyone remember video rental stores? If you recall, there was usually an adults-only section. Only adults could enter and rent videos from that part of the store. In Ohio, any business whose primary purpose is to sell or rent adult content must verify the age of those entering their establishment as required in Ohio Revised Code Section 2907.39.¹ The Innocence Act will take concepts from this commonsense law in the ORC into the 21st Century. We need to pass the Innocence Act because we know that video rental stores are largely part of a bygone era as smartphones and the internet are the platforms through which our children are exposed to obscene² and harmful content³.

In the case this question even needs to be answered, why don't we want our children viewing this obscene and harmful "adult" content online? In a 2016 study reported in *Archives of Sexual Behavior*, 48.7% of men studied were exposed to pornography before the age of 13.⁴ A 2010 study in the journal *Aggressive Behavior* found "intentional exposure to violent, X rated material over time predicted an almost 6 fold increase in the odds of self-reported sexually aggressive

¹ [ORC 2907.39](#)

² [ORC 2907.01\(F\)](#)

³ [ORC 2907.01\(G\)](#)

⁴ Sun, C., Bridges, A., Johnson, J.A., & Ezzell, M.B. (2016). Pornography and the male sexual script: An analysis of consumption and sexual relations. *Archives of Sexual Behavior* 45, 983–994. <https://doi.org/10.1007/s10508-014-0391-2>

behavior.”⁵ To that point, another study showed that violence was depicted in 88.2% of pornography.⁶ In 2017, the American Psychological Association found that “young exposure [to pornography was] associated with the need for power over women”⁷ in addition to another study which found increasing feelings of social isolation amongst those exposed to pornography.⁸ Finally, the National Human Trafficking Hotline found that the number one venue for sex trafficking in the nation⁹ and in Ohio¹⁰ is pornography.

These facts make it clear that our children need to be protected from the dangers of materials that are obscene and harmful to them. That is why the Innocence Act includes common sense age verification requirements for distributors of online pornography. The bill outlines guardrails that these companies must meet to prevent Ohio children from being distributed this content. Content, which is already illegal under ORC 2907.31. We’ve worked closely with the Ohio Casino Control Commission who have implemented similar guardrails for online sports betting, and many of these best practices are reflected in the Innocence Act.

For distributors who fail to adhere to this section of the bill, the criminal penalty is a misdemeanor of the first degree.¹¹ For minors who attempt to access this content by providing false identifying information, the penalty will be a misdemeanor of the fourth degree. This is in line with the penalty that minors face if they were to

⁵ “After adjusting for other potentially influential proximal (i.e., sexual aggression victimization) and distal characteristics (e.g., substance use), we found that intentional exposure to violent x-rated material over time predicted an almost 6-fold increase in the odds of self-reported sexually aggressive behavior (aOR: 5.8, 95% CI: 3.2, 10.5)”

Ybarra, M.L., Mitchell, K.J., Hamburger, M., Diener-West, M. & Leaf, P.J. (2011), X-rated material and perpetration of sexually aggressive behavior among children and adolescents: is there a link?. *Aggressive Behavior.*, 37: 1-18. <https://doi.org/10.1002/ab.20367>

⁶ Bridges, A. J., Wosnitzer, R., Scharrer, E., Sun, C., & Liberman, R. (2010). Aggression and sexual behavior in best-selling pornography videos: a content analysis update, *Violence Against Women*, 16(10), 1065–1085. <https://doi.org/10.1177/1077801210382866>

⁷ American Psychological Association. (2017). *Age of first exposure to pornography shapes men’s attitudes toward women*. Retrieved January 5th, 2024 from <https://www.apa.org/news/press/releases/2017/08/pornography-exposure>

⁸ Butler, M.H., Pereyra, S.A., Draper, W.D., Leonhart, N.D., & Skinner, K.B. (2017, March 7). Pornography use and loneliness: A bi-directional recursive model and polit investigation, *Journal of Sex & Marital Therapy*, 44(2), 127-137. <https://doi.org/10.1080/0092623X.2017.1321601>

⁹ National Human Trafficking Hotline. (2022). “National Human Trafficking Hotline Data Report: Report: 1/1/2021 – 12/31/2021.”

¹⁰ National Human Trafficking Hotline. (n.d.). Ohio: Statistics by year [2021]. Retrieved January 4th, 2024 from <https://humantraffickinghotline.org/en/statistics/ohio>

¹¹ This aligns with ORC Sections [2907.31\(F\)](#) and [2907.39\(F\)\(1\)](#) which both have the penalty of a misdemeanor of the 1st degree.

use false information to enter an adult entertainment establishment in Ohio.¹² We have also established a private right action for an injunction for minors or their legal guardians for situations where the minor is provided access to pornographic content online.

Secondly, the Innocence Act addresses the rising threat of fabricated sexual images, also known “deepfake” pornography. Deepfake technology allows a creator of an image or video to superimpose someone’s image and likeness into content in a manner that can appear to be extremely realistic. This technology is now being used to create pornographic material. A popular social media influencer on the platform Twitch was a victim of such deepfake pornography.¹³ This young lady’s traumatic experience was the impetus for the inclusion of the criminalization of fabricated sexual images in the Innocence Act.

The penalty for violating this section of the bill will be a felony of the fourth degree for a first-time offense. A repeat, sexually-oriented, or child-oriented offense is a felony of the third degree for this section. A private right of action can also be used to enforce this section.

Additionally, we have updated the criminal penalties for the dissemination of private sexual images, which are real images distributed without the other person’s consent. These penalties begin at a fifth degree felony and increase to a fourth degree felony for a repeat offense of this section, a sexually-oriented offense, or child-oriented offense.

During opposition testimony, you will likely hear from a group called the “Free Speech Coalition.” While their clever name makes the group appear to be an unbiased coalition of free speech advocates, something we would all hope to be, their membership is primarily made up of “adult entertainers.” I like to simply refer to this organization as the “Porn Lobby.” The Porn Lobby has actively fought similar legislation that has been passed with wide bipartisan support in other states

¹² [ORC 2907.39\(F\)\(2\)](#)

¹³ Court, A. (2023, February 6). *Twitch star QTCinderella’s deepfake porn nightmare: ‘F-k the internet’*. New York Post. Retrieved January 5th, 2024 from <https://nypost.com/2023/02/06/twitch-star-tearfully-reveals-shes-victim-of-deepfake-porn-f-k-the-internet/>

such as Texas, Louisiana, Virginia, California, and Utah to name a few, that require commonsense age verification measures to protect kids from dangerous and explicit material online.

Finally, in addition to the Ohio Casino Control Commission, this substitute bill comes after receiving feedback and input from the Ohio Department of Public Safety, the Ohio Prosecuting Attorney's Association, the Ohio Judicial Conference, the Ohio Attorney General's Office, and the Age Verification Providers Association. I'd like to thank all of these organizations and offices for their time and attention to this important issue as well as Majority Floor Leader Bill Seitz for his mentorship and insight. Thank you, Chair Abrams, for bringing this bill before your committee and for working with us while we created our sub. bill. Lastly, I must thank and acknowledge my Legislative Aide, Branden Agnew. He brought this issue to my attention and has worked tirelessly in researching and drafting this bill.

I urge your support for the Innocence Act, and I look forward to answering any questions the committee may have.