



An Overview of Significant Child Safety Risks Created by The American Law Institute's Revised Model Penal Code

The American Law Institute (ALI) is a nonprofit organization composed of judges, lawyers, and professors who provide recommendations to clarify and update the common law. The Model Penal Code (MPC) is designed to guide state legislatures on updating and standardizing state criminal laws. Revisions to the MPC are presented as legal recommendations to revise state laws and impact state/federal court cases. ALI recently passed revisions to the ALI Model Penal Code: Sexual Assault and Related Offenses (the Revised Code).

If adopted by states, portions of the Revised Code raise significant child safety concerns. Children will be endangered by new limitations on prosecuting sex trafficking and the removal of most protections provided by sex offender registries. The central child safety concerns raised by the Revised Code are summarized below:

Denying Access to Sex Offender Registries by Child-Serving Organizations (Code, § 213.11H)

The Revised Code prohibits members of the public, including child-serving businesses and youth-serving nonprofit organizations, from accessing sex offender registry information. Without this access, youth-serving organizations will have no feasible ability to conduct basic background checks on volunteer applicants who will interact with children. As a result, children could be at tremendous risk, and youth-serving organizations may close down programs rather than provide unsafe environments for children.

Setting Harmful Age Parameters Before Requiring Sex Offender Registration (Code, § 213.11A)

The Revised Code establishes harmful age parameters before requiring someone who rapes a child to be added to the sex offender registry: (1) an offender who sexually assaults a child must register as a sex offender only if the offender is 21 years old or older and the child is under the age of 12; (2) an offender who commits incestuous sexual assault of a child must register as a sex offender only if the child is under the age of 16. This revision only provides relief to child rapists, while leaving child victims vulnerable to sexual assault.

Removing Violent, Sexual Crimes Against Children from Sex Offender Registries (Code § 213.11A)

The Revised Code removes several serious crimes against children from being registrable offenses: kidnapping/attempted kidnapping, online enticement, sex trafficking, and child sexual abuse material. This revision fails to recognize the violent and sexual nature of these crimes when perpetrated on children.

Removing Key Identifiers Offenders Must Provide to Sex Offender Registry (Code § 213.11D)

The Revised Code would no longer require offenders who must register for the sex offender registry to provide key identifiers, including date of birth, internet identifiers, fingerprints, DNA samples, and driver's license information. These identifiers are necessary to avoid mistaken identity and to intervene and to help keep children safe from registered offenders who are re-offending online.

Weakening Sex Trafficking Prosecutions (Code § 213.9)

The Revised Code limits sex trafficking prosecutions in three significant aspects by: (1) removing "advertising" from the list of acts that can be used to establish trafficking; (2) requiring identification of a trafficker or third party controlling the victim to establish sex trafficking; and (3) excluding criminal liability for buyers of commercial sex by removing "receives" and "obtains" from the list of acts that can be used to establish trafficking. These revisions benefit only traffickers and buyers who victimize children through sex trafficking and fail to protect the rights of the victims to receive the protections and services they are entitled to under child sex trafficking laws.