



The American Law Institute's Revised Model Penal Code: Setting Age Parameters Before Someone Who Rapes a Child is Added to Sex Offender Registry and Requiring Two Convictions for Sexual Assault by Physical Force Before Registration

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 the Revised Code's limitations on prosecuting sex trafficking and its removal of most protections provided by sex offender registries.

Age Parameters Before Someone Who Rapese a Child is Added to Sex Offender Registry (Code, § 213.11A)

The Revised Code establishes two arbitrary age parameters before requiring someone who rapes a child to be added to the sex offender registry. The first age parameter limits registration only to situations where the offender is 21 years old or older and the child is younger than 12 years old. The second age parameter limits registration for incestuous sexual assault only to cases where the victim is under the age of 16.

Under the Revised Code, offenders in each of the following scenarios would not be required to register:

- A 19-year-old who rapes a 13-year-old child
- A 65-year-old who rapes a 12-year-old child
- A 20-year-old who rapes an infant
- A father who rapes his 16-year-old daughter

The Revised Code provides no rationale for applying these arbitrary age limits on registration for sexual assault of a child. These revisions only provide relief to offenders who commit violent sexual crimes against children by permitting them to escape registration. The rights of children to be protected from sexual assault are not referenced under this provision of the Revised Code. Under the Revised Code, a parent vetting a 20-year-old potential babysitter by checking the sex offender registry would be unaware if that individual had a history of sexually exploiting young, pre-verbal children. Similarly, a youth group considering a 65-year-old volunteer to interact with school-age children would be unable to check a sex offender registry to see if that individual had a prior conviction for rape of a 12-year-old child.

Requiring Two Convictions of Sexual Assault by Physical Force Before Registration (Code, § 213.2)

The Revised Code requires that an offender be convicted not once, but twice, of sexual assault by physical force before they are required to register as a sex offender. This provision disregards the rights of victims and endangers the public. Offenders who commit sex crimes are often repeat offenders and there is no rationale to deprive society of the protective benefits of registration and notification after a first conviction of sexual assault by physical force.

Potential Impact

ALI's creation of arbitrary age parameters and the requirement for dual convictions for sexual assault by physical force before convicted offenders are required to register as a sex offender prevents child victims and potential child victims from being protected from rape and sexual assault.