



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 is in the final stages of approving 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 through access to sex offender registry information.

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 from directly accessing any sex offender registry information. Victims of sexual crimes would not be able to access the registry for information about the location of their perpetrator, and community members would not be able to learn about registered sex offenders who might be living or working in their neighborhoods. Youth-serving non-profit organizations and child-serving businesses will no longer be able to access sex offender registries as a basic step in conducting background checks on applicants who will interact with children. As a result, children could be at tremendous risk, and youth-serving organizations may be forced to limit or close down programs rather than provide unsafe environments for children.

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. Perpetrators convicted of kidnapping/attempted kidnapping, online enticement, and the production, possession, and distribution of child sexual abuse material would no longer have to register as a sex offender. This revision fails to recognize the violent and sexual nature of these crimes when perpetrated on children.

Weakening Sex Trafficking Prosecutions (Code § 213.9)

The Revised Code limits sex trafficking prosecutions in two significant aspects by: (1) requiring identification of a trafficker or third party controlling the child victim to establish sex trafficking; and (2) excluding criminal liability for buyers of commercial sex under the trafficking statute by removing “obtains”, “patronizes” and “solicits” from the list of acts that can be used to establish trafficking. While buyers of sex with children could still be held criminally liable under a lesser crime, they would no longer be required to register as a sex offender. 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.