



The American Law Institute's Revised Model Penal Code: Prohibiting Child-Serving Organizations' Access to Sex Offender Registries

Background

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

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

The Revised Code prohibits members of the public from accessing any sex offender registry information. Child-serving businesses and youth-serving non-profit organizations are prohibited from accessing sex offender registries, even to run essential background checks on applicants for employment and volunteer positions that involve direct contact with children. Under the Revised Code, victims of sex crimes would not be permitted to directly access registry information relating to their own victimization or find out where the offender who harmed them lives, works or studies, even if they are notified that their abuser is currently in their locality. Public sex offender registries would cease to exist.

This revision creates significant safety risks for children who participate in sports, mentoring, religious, music, or other extracurricular activities sponsored by youth-serving organizations and also deprives parents with the ability to use the registry to make safety determinations for their family. The Revised Code would leave youth-serving organizations with no feasible means to determine if they are hiring an offender who has been convicted of raping or committing another sexual crime against a child. As a result, children could be at tremendous risk.

From 2003 to 2011, the National Center for Missing & Exploited Children (NCMEC) ran a [pilot background check program](#) for youth-serving nonprofit organizations. NCMEC's pilot program demonstrated that 6.2% of applicants for volunteer positions with children had a prior criminal history of child abuse. These applicants still actively pursued volunteering with children, demonstrating that individuals who have sexually abused children will actively seek continued access to children. Some applicants had criminal histories of homicide, sexual assault, child abuse and neglect, and rape. Some were previously convicted and currently registered sex offenders. More than half of the applicants with a criminal record falsely claimed on their application that they had no criminal record.

The results of NCMEC's pilot background check program are especially alarming given recidivism rates for sex offenders and underreporting of sex crimes. A [Department of Justice report](#) found that sexual recidivism rates of sex offenders range from 5% after 3 years to 24% after 15 years. Given the general underreporting of sex crimes, observed recidivism rates are likely underestimates of the actual re-offense rates of sex offenders.

Potential Impact

The Revised Code creates grave risks to children by prohibiting members of the public and youth-serving organizations from directly accessing sex offender registries. This access is essential for members of the public to assess their own family's safety considerations and for youth-serving organizations to conduct background checks for applicants interacting with children. If all public access to registry information is terminated, then organizations cannot vet applicants for sexual crimes and parents cannot determine safe environments for their children.