



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 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.

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

The Revised Code prohibits members of the public, child-serving businesses, and youth-serving non-profit organizations from accessing sex offender registry information. Currently access to sex offender registries is an essential part of background checks run on applicants for employment and volunteer positions that involve contact with children. Under the Revised Code, only government law enforcement agencies would be permitted to access information about registered sex offenders. Public sex offender registries would cease to exist.

This revision creates significant safety risks for children who participate in sports, mentoring, religious, music, or any extracurricular activities sponsored by youth-serving organizations. The Revised Code would leave these 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, and it is likely some youth-serving organizations would close their doors rather than provide an unsafe environment for children.

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 registered sex offenders. More than half 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 youth-serving organizations from accessing sex offender registries. This access is essential to conduct background checks for applicants interacting with children. If organizations cannot vet applicants for sexual crimes, children will be endangered, parents will avoid enrolling their children in programs, and child-serving organizations may close rather than provide unsafe environments for children.