



The American Law Institute's Revised Model Penal Code:

Removal of Violent, Sexual Crimes Against Children from Sex Offender Registry

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.

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

The Revised Code removes numerous severe crimes against children from being registrable offenses. Offenders convicted of kidnapping, attempted kidnapping, online enticement, sex trafficking, and child sexual abuse material (CSAM) crimes will no longer have to register as a sex offender. This single revision will create severe dangers to children victimized by crimes of sexual violence.

Removal of Kidnapping: ALI defines the kidnapping of a child as a nonsexual crime. While nonfamilial child kidnappings are relatively rare, when a child is kidnapped by a stranger, there is considerable risk the child will be sexually assaulted and murdered. In many cases, the kidnapping of a child is a direct means to obtain a child to rape and sexually abuse.

Removal of Online Enticement/Online Distribution of CSAM: The Revised Code's removal of online enticement and crimes relating to the online distribution of CSAM reverts to an outdated legal paradigm that recognizes only "hands-on" abuses and disregards the explosive growth in online child sexual exploitation. Offenders engage in online enticement to solicit sexually explicit images and in-person sexual contact with a child. These offenders are usually unknown to the child and have multiple child victims. Distribution of CSAM is not a victimless crime. Offenders who distribute CSAM online commonly also have access to or will attempt to access children to commit hands-on sexual abuse. Far from being a passive crime, CSAM frequently involves extreme violence, sadistic acts, and horrific sexual abuse and torture of children, including infants. Additionally, it is well-documented that children suffer from the distribution of their CSAM in addition to, and apart from, the hands-on abuse.

Removal of Sex Trafficking: The Revised Code's removal of sex trafficking as a registrable offense is based primarily on a false conclusion that trafficking is an economic crime, not a sexual crime. The reality is that a majority of trafficked children are subjected to rape and sexual abuse as coercion and control. Selling a child to others for rape and sexual abuse does generate economic benefit for the trafficker, but fundamentally it is commercializing the sexual violence committed against a child.

Potential Impact

The Revised Code demonstrates a lack of understanding regarding the criminal nature of kidnapping, online distribution of CSAM, online enticement, and sex trafficking when perpetrated against a child. The sex offender registry was created precisely to address perpetrators of these violent, sexual crimes against children and to remove offenders of these crimes from registration puts children at increased risk for victimization.