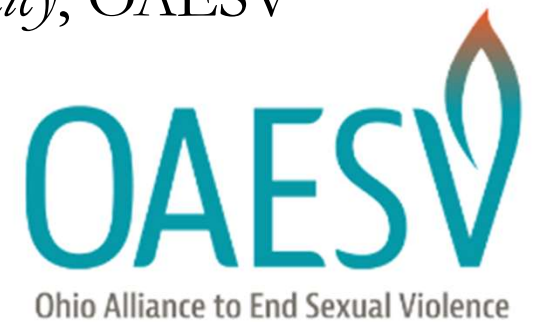


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First Friday – February 2020

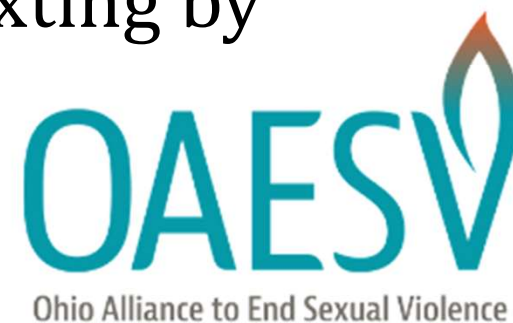
Camille Crary, *Director of Legal Services & Policy*, OAESV



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Objectives

1. Participants will understand the distinctions between House Bills 470-472 and House Bill 279/Senate Bill 162.
2. Participants will review House Bill 431, which seeks to create a sexual exploitation database.
3. Participants will discuss Senate Bill 239, which seeks to criminalize sexting by persons under 19.



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Statute of Limitations Strategies

1. House Bill 279/ Senate Bill 162
(Boggs, Galonski, Antonio, O'Brien)
2. House Bills 470-472 (Rogers)



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House Bill 279/Senate Bill 162

- Removes SOL for 2907.02 Rape in criminal system
- Removes SOL for civil claims for conduct that would constitute 2907.02 Rape
- Removes spousal exemption for rape of a victim whose ability to consent was substantially impaired



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House Bill 470

Part I: Civil Child Sexual Abuse Claims

- Extends the SOL for civil assault or battery claims based on child sexual abuse to span until the victim reaches the age of 55.
- If the victim recovers memories after age 55, they have a 3-year additional window to file civil claims.

Part II: Removes Statute of Limitations for 2907.02 Rape in Criminal System



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House Bill 471

Part I of House Bill 470: Civil Child Sexual Abuse Claims

- Extends the SOL for civil assault or battery claims based on child sexual abuse to span until the victim reaches the age of 55.
- If the victim recovers memories after age 55, they have a 3-year additional window to file civil claims.



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House Bill 472

Part II of House Bill 470: Removes Statute of Limitations for 2907.02 Rape in Criminal System



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Sexual Exploitation Database

House Bill 431, Reps. Abrams and Carfagna

- Requires Attorney General to adopt rules and prescribe forms for the establishment and operation of the Sexual Exploitation Database.
- Establishes \$170,000 appropriation in first fiscal year, \$20,000 in second fiscal year



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Sexual Exploitation Database

- Offenses
- Records
- Removal



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Sexual Exploitation Database

- Offenders
 - Persons who have been convicted of or plead guilty to:
 - A promoting prostitution offense
 - A soliciting offense if the offender offered to give the other person anything of value in exchange for engaging in sexual activity for hire.



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Sexual Exploitation Database

- Offenders
 - Soliciting Offense: 2907.23:
<http://codes.ohio.gov/orc/2907.23>
 - Promoting Prostitution Offense:
 - 2907.22: <http://codes.ohio.gov/orc/2907.22v1>
 - 2907.24: <http://codes.ohio.gov/orc/2907.22v1>



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Sexual Exploitation Database

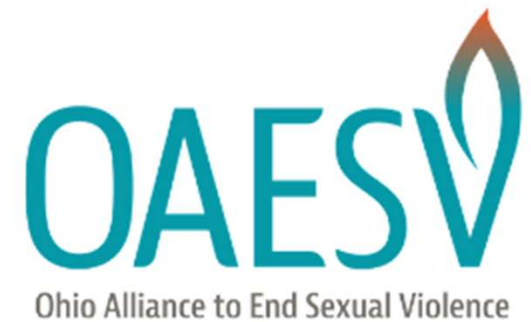
- Conviction Records:
 - Offender's full legal name;
 - Offender's last known address;
 - A color photograph of the prostitution offender;
 - Offense ORC Number;
 - Offense Date;
 - County/Municipality of Offense



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Sexual Exploitation Database

- Removal:
 - Automatic after five years
 - Application: If offender's conviction of or plea of guilty is overturned, expunged, or sealed prior to the automatic removal, the offender may submit an application to remove the record from the database.



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Sexual Exploitation Database

- Purpose – in part, social stigma
 - “Ohio is currently the fourth worst state for human trafficking in the nation, fueled by a significant demand for sexual activity for hire. Under current law, it is not difficult for someone caught soliciting a prostitute to keep that information hidden from friends, family, and their employer. No one accidentally engages in sexual activity for hire. These offenders are aware their conduct is illegal and choose to engage anyway.”



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Sexual Exploitation Database

- Potential Issues
 - Charging trafficked persons
 - Coordination with 2953.31 Sealing Mechanism for Human Trafficking Victims

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Sexual Exploitation Database

- Next Steps: Monitor legislation, defer to human trafficking specialists in field, communicate results of those conversations and respond to legislation accordingly



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Sexting Prohibition

Senate Bill 239 Prohibit Sexting by Persons Under 19 Years of Age

- Senator Nathan Manning
- Senate Judiciary Committee



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Sexting Prohibition

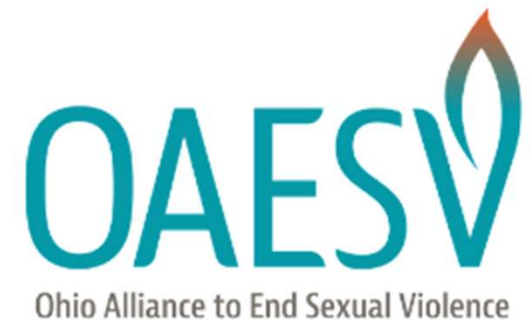
Prohibits persons under 19 from purposely creating, producing, distributing, presenting, transmitting, posting, exchanging, disseminating, or possessing through a telecommunications device any sexually explicit digital material.



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Sexting Prohibition

- **But** this prohibition applies only when the person is not more than 4 years older than the minor depicted.
- “Sexually explicit digital material” is defined as any photograph or other visual depiction of a minor who is at least 13 years old in any condition of nudity or is involved in any sexual activity prohibited in the Sex Offense Law – R.C Chapter 2907.



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Sexting Prohibition

- **Affirmative Defense:** the person charged
- (1) did not solicit the material, AND
- (2) did not subsequently distribute or print the material, AND
- (3) deleted or destroyed the material upon receiving it.

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Sexting Prohibition

Diversion Program:

- Courts must create or use a previously created diversion program that covers the following topics:
- Legal consequences
- Review of applicable federal and state statutes.
- Nonlegal consequences, including the effect on relationships, possible loss of educational and employment opportunities, & possibility of being barred or removed from school programs and extracurriculars



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Sexting Prohibition

Diversion Program:

- Courts must create or use a previously created diversion program that covers the following topics:
- Unique characteristics of cyberspace, including searchability, replicability, and an infinite audience, can produce long-term and unforeseen consequences for sharing sexually explicit digital materials.
- Connection between bullying and cyber-bullying and the sharing of sexually explicit digital materials.
- Court determined relevant topics

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Sexting Prohibition

Diversion Program:

- Not available to persons previously convicted of or plead guilty to a statutorily-classified sex offense.
- Tolls statute of limitations for other applicable sex crime statutes.
- Persons who elect not to participate in the diversion program or violate the terms of participation may be brought to trial or hearing in juvenile court for original charges.



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Sexting Prohibition

Classification:

- First Degree Misdemeanor: 8 hours community service if not engaged in diversion program.
- Discretion for other penalties.

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How to find your lawmaker:

<https://www.legislature.ohio.gov/legislators/district-maps>

- Type in address, click on lawmaker photos, retrieve telephone number and mailing address.
- Email:
 - [senator's last name]@ohiosenate.gov
 - Example: Antonio@ohiosenate.gov
 - Rep[##]@ohiohouse.gov
 - rep03@ohiohouse.gov



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Title IX

Brief Update



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Questions?

Camille Crary, Director of Legal Services & Policy

OAESV

ccrary@oaesv.org

216-317-1828

