



TO: Ohio General Assembly

FROM: Ohio Criminal Sentencing Commission

DATE: February 15, 2024

RE: Juvenile Unconstitutional Ohio Revised Code Section

[R.C. 181.25\(A\)\(4\)](#) directs the Ohio Criminal Sentencing Commission (the Commission) to study the existing sentencing structure of the state and recommend necessary changes. Consistent with the Commission’s statutory mandate, this memorandum is notification to the General Assembly that legislative action may be necessary, as the Supreme Court of Ohio has held that a portion of the state’s juvenile sentencing structure, [R.C. 2152.86](#), is unconstitutional.

R.C. 2152.86 imposes an automatic, lifetime requirement of sex-offender registration and notification on qualifying juvenile offenders who have been adjudicated delinquent for committing certain sex offenses. The juveniles who are subject to this mandatory registration are Public Registry-Qualified Juvenile Offender Registrants. They are 14 years of age or older, have been subject to a serious youthful offender dispositional sentence, and have been adjudicated delinquent for committing, attempting or conspiring to commit, or complicity in committing one of the delineated sex offenses outlined in R.C. 2152.86(A)(1)(a)-(c).

In 2012, the Supreme Court of Ohio, in *In re C.P.*, [131 Ohio St.3d 513, 2012-Ohio-1446](#), held that the R.C. 2152.86 automatic, lifetime registration and notification penalty constitutes cruel and unusual punishment and, therefore, violates both the Eighth Amendment to the United States Constitution and the Ohio Constitution, Article I, Section 9. Additionally, the Court found that the procedure for the imposition of the penalty violates the Due Process Clause of the Fourteenth Amendment to the United States Constitution and the Ohio Constitution, Article I, Section 16.

Despite the unconstitutional findings, the text of R.C. 2152.86 has remained, unchanged, in the Ohio Revised Code. As a result, numerous appellate courts have had to intervene to correct trial court orders that have erroneously been issued under R.C. 2152.86.

The Commission’s suggestion to the General Assembly is that R.C. 2152.86 either be repealed in its entirety or be amended to conform with the decision in *In Re C.P.*

For further information or inquiry please contact Melissa A. Knopp, Esq., Director of the Ohio Criminal Sentencing Commission, at Melissa.Knopp@sc.ohio.gov or (614) 378-9311.