



ENACTMENT NEWS

Senate Bill 64 **Change to the Child Enticement Statute** Effective July 11, 2013

On July 11, 2013, Governor John R. Kasich signed into law Senate Bill 64, which changes the current child enticement statute. Because of an emergency clause within the bill, the bill became law as soon as it was signed by the Governor.

Several courts, most recently the Ninth District Court of Appeals, held that O.R.C. Section 2905.05 (and a municipal ordinance substantially identical to it) was unconstitutionally overbroad because it encompassed activity that may not be illegal, such as one child asking another child if he wanted a ride home from school. The legislature, worried that several jurisdictions in Ohio would now not have any law pertaining to child enticement until the Ohio Supreme Court decides *State v. Romage*, acted quickly to pass legislation with the *mens rea* element necessary that would make Sec. 2905.05 constitutionally sound.

The language of the enacted version of S.B. 64 was borrowed from a Florida statute, which was cited favorably by the Ninth Circuit Court of Appeals. The bill preserves Sec. 2905.05 (A), which states that “no person ... shall knowingly solicit, coax, entice, or lure any child under fourteen years of age to accompany the person ...” and adds a Sec. 2905.05 (C), which states that no person shall violate Section (A) “for any unlawful purpose.” Arguably, Sec. 2905.05 (A) alone may still be a viable charge in those districts that have not yet ruled it unconstitutional. In other districts the new Sec. 2905.05 (C) provision is intended to solve the constitutionality issue.

The bill passed the Ohio Senate 30-2 on May 30 and the Ohio House of Representatives 93-0 on June 25. It was signed by the Governor on July 11, 2013.