

## ORDINANCE NO. 113-2020

BY: **DEBORAH LIME**

AN ORDINANCE TO AMEND SECTION 636.075 "CRIMINAL CHILD ENTICEMENT" IN CHAPTER 636 "OFFENSES RELATING TO PERSONS" OF PART SIX "GENERAL OFFENSES CODE" OF THE PARMA CODIFIED ORDINANCES, AND DECLARING AN EMERGENCY

WHEREAS Section "A" of Section 636.075 "Criminal Child Enticement" in Chapter 636 "Offenses Relating to Persons" of Part Six "General Offenses Code" in Parma Codified Ordinances has been deemed unconstitutional.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PARMA, STATE OF OHIO:

Section 1. That Section 636.075 of the Codified Ordinances of Parma, Ohio which presently reads:

636.075 CRIMINAL CHILD ENTICEMENT.

- (a) No person, by any means and without privilege to do so, shall knowingly solicit, coax, entice, or lure any child under 14 years of age to accompany the person in any manner, including entering into any vehicle or onto any vessel, whether or not the offender knows the age of the child, if both of the following apply:
  - (1) The actor does not have the express or implied permission of the parent, guardian, or other legal custodian of the child in undertaking the activity.
  - (2) The actor is not a law enforcement officer, medic, firefighter, or other person who regularly provides emergency services, and is not an employee or agent of, or a volunteer acting under the direction of, any board of education, or the actor is any such person, but at the time the actor undertakes the activity, the actor is not acting within the scope of the actor's lawful duties in that capacity.
- (b) No person, with a sexual motivation, shall violate division (a) of this section.
- (c) It is an affirmative defense to a charge under division (a) of this section that the actor undertook the activity in response to a bona fide emergency situation or that the actor undertook the activity in a reasonable belief that it was necessary to preserve the health, safety, or welfare of the child.
- (d) Whoever violates this section is guilty of criminal child enticement, a misdemeanor of the first degree. If the offender previously has been convicted of a violation of this section, a substantially equivalent State law or municipal ordinance, Ohio R.C. 2907.02, 2907.03, or former Ohio R.C. 2907.12, or Ohio R.C. 2905.01 or 2907.05 when the victim of that prior offense was under 17 years of age at the time of the offense, criminal child enticement is a felony to be prosecuted under appropriate State law.
- (e) As used in this section:
  - (1) "Sexual motivation" has the same meaning as in Ohio R.C. 2971.01.
  - (2) "Vehicle" has the same meaning as in Ohio R.C. 4501.01.
  - (3) "Vessel" has the same meaning as in Ohio R.C. 1547.01.

**is hereby amended to read as follows:**

636.075 CRIMINAL CHILD ENTICEMENT.

(a) No person, by any means and without privilege to do so, **AND WITH A SEXUAL MOTIVATION**, shall knowingly solicit, coax, entice, or lure any child under 14 years of age to accompany the person in any manner, including entering into any vehicle or onto any vessel, whether or not the offender knows the age of the child, if both of the following apply:

- (1) The actor does not have the express or implied permission of the parent, guardian, or other legal custodian of the child in undertaking the activity.
- (2) The actor is not a law enforcement officer, medic, firefighter, or other person who regularly provides emergency services, and is not an employee or agent of, or a volunteer acting under the direction of, any board of education, or the actor is any such person, but at the time the actor undertakes the activity, the actor is not acting within the scope of the actor's lawful duties in that capacity.

~~(b) No person, with a sexual motivation, shall violate division (a) of this section.~~

(b) It is an affirmative defense to a charge under division (a) of this section that the actor undertook the activity in response to a bona fide emergency situation or that the actor undertook the activity in a reasonable belief that it was necessary to preserve the health, safety, or welfare of the child.

(c) Whoever violates this section is guilty of criminal child enticement, a misdemeanor of the first degree. If the offender previously has been convicted of a violation of this section, a substantially equivalent State law or municipal ordinance, Ohio R.C. 2907.02, 2907.03, or former Ohio R.C. 2907.12, or Ohio R.C. 2905.01 or 2907.05 when the victim of that prior offense was under 17 years of age at the time of the offense, criminal child enticement is a felony to be prosecuted under appropriate State law.

(d) As used in this section:

- (1) "Sexual motivation" has the same meaning as in Ohio R.C. 2971.01.
- (2) "Vehicle" has the same meaning as in Ohio R.C. 4501.01.
- (3) "Vessel" has the same meaning as in Ohio R.C. 1547.01.

Section 2. That Section 636.075 "Criminal Child Enticement" in Chapter 636 "Offenses Relating to Persons" of Part 6 "General Offenses Code" of the Codified Ordinances of the City of Parma, as it existed heretofore, is hereby amended.

Section 3. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of the Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all the legal requirements.

Section 4. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety and welfare of the City of Parma, and for the further reason that this measure is necessary in order to amend the code as soon as possible, and this Ordinance shall become immediately effective upon receiving the affirmative vote of two-thirds of all members elected to Council and approval of the Mayor, otherwise from and after the earliest period allowed by law.

PASSED: \_\_\_\_\_  
PRESIDENT OF COUNCIL

ATTEST: \_\_\_\_\_ APPROVED: \_\_\_\_\_

FILED WITH  
THE MAYOR: \_\_\_\_\_  
MAYOR, CITY OF PARMA, OHIO