



Kansas County & District Attorneys Association

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To: Chairman Jennings and Members of the House Corrections and Juvenile Justice Committee

From: Kim T Parker, Prosecutor Coordinator: Kansas County & District Attorney's Association

Date: February 14, 2017

Re: Proponent Testimony for HB 2284

Chairman Jennings and Members of the House Corrections and Juvenile Justice Committee:

Thank you for the opportunity to provide testimony in opposition to HB 2284. I am Kim Parker and I am addressing you on behalf of the Kansas County and District Attorney's Association and the many Kansas prosecutors they represent. We are proposing an amendment to K.S.A. 21-5610 Unlawful Possession of a Visual Depiction of a Child and K.S.A. 21-5611 Unlawful Transmission of the Visual Depiction of a Child. These two statutes were enacted to control and respond to the inappropriate acts, commonly referred to as "sexting". These statutes are aimed to differentiate between offensive juvenile behavior and individuals who are engaging in conduct that is sexually exploitive and legally obscene. Allowing for lower penalties in response to behavior that is illegal but does not arise to the level of sexually exploitive behavior.

This committee should be aware that prior to the enactment of this statute prosecutors in Kansas were using their discretion either not charging the juvenile with a crime, notifying the parental authority and securing and clearing the phone in question, or placing the juvenile in a diversion program. This new statute will not affect a prosecutor's good use of discretion in the evaluation of this inappropriate behavior. We will continue to use practices and enforcement of the law to discourage the conduct and identify predatory behavior.

The amendment we propose in HB 2284 is intended to bring this statute into conformity with all other sex offenses and with all other types of crimes. The current statute includes individuals who are less than 19yrs of age, which includes adults age 18yrs. In all other instances in the law, an 18yr old is treated as an adult, DUI, Robbery, Theft etc. We see no reason to make an exception with this crime. For example, in the case of an 18yr old in possession of an explicit photograph of a 12yr old, the same 18yr old would not legally be able to have any type of sexual contact with a 12yr old, we see no reason to draw this distinction here.

We also suggest this committee adjust the age of the child depicted in the photo from 12yrs to 14yrs. This is in conformity with all other sex offense laws against a child. It is our firm belief that this state should stand consistent in its greater protection for children under the age of 14yrs due to their extreme vulnerability for sexual abuse.

Therefore, we urge you to adopt the amendment to K.S.A.21-5610 and 21-5611 proposed in HB 2284, changing 19yrs to 18yrs. In addition, we urge you to consider and further amend both statutes to change 12yrs to 14yrs.

Respectfully Submitted,

Kim T Parker; Prosecutor Coordinator

Kansas County and District Attorney's Association