



Testimony for the Senate Judicial Proceedings Committee

February 11, 2020

JUSTIN NALLEY
POLICY ANALYST,
EDUCATION

SB 45 – Criminal Law – Child Pornography – Distribution, Creation, or Possession by Minor Subject

SB 365 Criminal Law - Child Pornography and Exhibition and Display of Obscene Items to Minors

AMERICAN CIVIL
LIBERTIES UNION
OF MARYLAND

FAVORABLE

MAIN OFFICE
& MAILING ADDRESS
3600 CLIPPER MILL ROAD
SUITE 350
BALTIMORE, MD 21211
T/410-889-8555
or 240-274-5295
F/410-366-7838

FIELD OFFICE
6930 CARROLL AVENUE
SUITE 610
TAKOMA PARK, MD 20912
T/240-274-5295

WWW.ACLU-MD.ORG

OFFICERS AND DIRECTORS
JOHN HENDERSON
PRESIDENT

DANA VICKERS SHELLEY
EXECUTIVE DIRECTOR

ANDREW FREEMAN
GENERAL COUNSEL

The ACLU of Maryland supports SB 45 and SB 365, both of which would prevent the criminalization of minors who send nude images of themselves to another minor.

Our existing child pornography laws were created for the predators of child pornography and therefore do not properly address the issue of sexting, in which children send suggestive images of themselves to other children. Under current law, when a young person sends a suggestive picture of themselves, this legally constitutes creating and distributing child pornography. Certainly, these situations warrant intervention, but they should not be treated on par with felony charges for adults who victimize children. Even worse, children who engage in this activity are subject to severe penalties—violators are guilty of a felony, punishable by imprisonment for up to 10 years and/or a \$25,000 maximum fine for a first violation and imprisonment for up to 20 years and/or a \$50,000 maximum fine for each subsequent violation

Prosecutors have broad discretion to decide how to charge young people with sexting, or whether to prosecute them at all. Current laws were not written with sexting in mind and provide no guidance. Prosecutors might pursue felony convictions, which label the young person as a sex offender and carry mandatory registration requirements. Or they may charge a young person with misdemeanors without registration requirements, or impose hours of community service, or they may decide not to pursue charges at all.

Naivety is part of adolescence, and society has a responsibility to teach young people to protect themselves. Threatening teens with felony criminal prosecution, with the potential to drastically harm their future, is not the solution. We need to help our teens better understand the consequences of sexting. We do that by having clear laws that will be applied evenly, while limiting the possibility of misuse. This bill is a step in that direction, as we

adapt to ever changing technology and its use, while also protecting our most vulnerable population, our youth.

For the foregoing reasons, ACLU of Maryland supports SB 45 and SB 365.

