

Testimony of Patrick A. Trueman, Esq.
President and CEO
National Center on Sexual Exploitation

Before the Judiciary Committee
Maryland House of Representatives
Tuesday, February 27, 2020

The National Center on Sexual Exploitation (NCOSE) is the leading national organization exposing the connections between all forms of sexual exploitation and abuse especially including pornography, sex trafficking, child sexual abuse, and prostitution. Founded in 1962, the National Center is a nonpartisan, nonprofit based in Washington, DC.

On behalf of the National Center, I strongly **oppose House Bill 501**, An Act Concerning Child Pornography and Exhibition and Display of Obscene Items to Minors. Although I understand the intention of this legislation is to address a case in Maryland involving a teenager who produced pornography of herself and was subsequently convicted—a conviction widely perceived to be unfair—the legal construction of this proposal will have negative unintended consequences. Having prosecuted obscenity cases as Chief of the Department of Justice’s Child Exploitation and Obscenity Section (1988-93), my assessment is based on professional experience.

HB 501 effectively legalizes self-produced child pornography. It assumes that an image can be considered child pornography under the law if an adult possesses it, but *not* child pornography if a minor distributes it. You are creating a distinction that could make it impossible to police child sexual abuse material!

Furthermore, I think this approach will create a defense for adult perpetrators. Let's take an example of an adult who engages in subtle coercion with a minor to engage in sexual activity and films it. He then sends it from her phone. What will he say when arrested for possession or distributing it? He will say she produced it, not him.

In effect this proposal will make possession of child pornography legal when an adult is in the image. That is a very misguided approach.

Instead, the House of Representatives could design legislation that offers alternative charges to prosecutors for youth who engage in child produced child pornography. Those alternatives could include referrals to juvenile court; diversions for first time offenses; or separate charges targeting this act. This proposal will tie a prosecutor's hands in cases in which court intervention may be necessary.

Thank you for the opportunity to share NCOSE’s concerns. I am available for further consultation at: patrick@ncose.com and +1/202/393-7245.