



Families Advocating
Intelligent Registries

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**HB 1245
Opposed**

**Opposed Response to House Bill 1245
Juvenile Law - Conduct by Children Involving Sexually Explicit or Nude Images**

Families Advocating Intelligent Registries (FAIR) has a special concern for persons accused and convicted of sexual offenses, and seeks rational, constitutional sexual offense laws and policies. House Bill 1245 is attempting to create a special law for sexting by children under 18 that prevents criminal records and lets the child only receive a "child in need of assistance" allegation. But FAIR feels that the exceptions may make it difficult for young people to benefit.

In the proposed CJP Article 3-8D, we see definitions of sexual behavior and nudity without actually naming "sexting." It would exclude any child who "knows or reasonably should know" the depicted behavior was assaultive, non-consensual, sex trafficking, under threat, or a violation of similar laws in other states. "Knows or reasonably should know" can be a difficult standard to meet even for some adults, and would be very subjective.

Other exceptions in the new CJP 3-8D spell out that everyone in the image (whether of another child or of the child who is sending) must give permission to share, everyone receiving the image requested it or expected it, and nobody suffered any emotional distress as a result of receiving it. On its face this seems reasonable, but it will be a difficult standard to meet – especially the one about no emotional distress. A person could initially be fully on board with sharing or receiving an image or video, and later deeply regret it for any number of reasons. The sender/accused should not be excluded from CJP 3-8D as a result.

This bill goes on to add to each of our Child Pornography statutes that a minor cannot be found to violate that statute if instead they are found to violate CJP 3-8D-103 UNLESS produced by assaultive behavior, sex trafficking, under threat, without consent, or a similar violation from another jurisdiction. This would be on the right track, if CJP 3-8D-103 did not have some challenging exceptions of its own.

In conclusion, FAIR respectfully requests that the committee vote NO on House Bill 1245.

Sincerely,

Brenda V. Jones, Executive Director
Families Advocating Intelligent Registries