
BILL NO: House Bill 149
TITLE: Criminal Law - Distribution of Child Pornography - Minor
COMMITTEE: Judiciary
HEARING DATE: January 21, 2021
POSITION: **SUPPORT WITH AMENDMENTS**

House Bill 149 is seeking to address a complex situation where minors send explicit text messages to each other (sexting). There are so far several bills being offered this session, including HB 180. The Women's Law Center (WLC) supports a public policy solution that will balance the needs and realities for minors in two ways:

- 1) teenagers/minors who engage in consensual sexting should not be criminally prosecuted; and
- 2) minors should be protected from non-consensual creation or distribution of nude images of themselves.

House Bill 149 and these other bills were introduced in response to *In re: S.K.*, filed by the Court of Appeals on August 28, 2019. The case involved a teenage student who sent to two of her close friends a video message of herself performing oral sex on an unidentified male. Eventually one of the friends, without permission, chose to distribute the video throughout their high school. The school resource officer became aware of the video clip. When the student met with the resource officer, she justifiably expected the officer would help stop distribution of the video. She felt embarrassed and never intended for anyone other than her friends to see it. Instead, the resource officer viewed the teenager as having committed criminal activity. A police report was filed.

Then, in an astonishing and damaging failure of prosecutorial discretion, the County State's Attorney decided to go forward and file a juvenile petition alleging criminal charges against the student under Maryland's child pornography and obscenity laws. Testimony last year in the Judicial Proceedings Committee included that charges were filed in order to get S.K. services, but we take no position on the veracity of that statement.

It cannot and should not be Maryland's public policy to criminalize a young woman who trusted her friends, and exercised her own judgment, albeit perhaps poorly. Frankly, we think this will disproportionately affect young women.

Therefore, the Women's Law Center of Maryland, Inc. urges a favorable report on House Bill 149 or whichever bill this body finds is the best solution.

The Women's Law Center of Maryland is a private, non-profit, membership organization that serves as a leading voice for justice and fairness for women. It advocates for the rights of women through legal assistance to individuals and strategic initiatives to achieve systemic change.