

Bill Number: HB 149

**Scott D. Shellenberger, State's Attorney for Baltimore County
Opposed**

WRITTEN TESTIMONY OF SCOTT D. SHELLENBERGER,
STATE'S ATTORNEY FOR BALTIMORE COUNTY,
IN OPPOSITION TO HOUSE BILL 149
DISTRIBUTION OF CHILD PORNOGRAPHY - MINOR

I write in opposition to House Bill 149 which attempts to address how juveniles who are charged with "sexting" get handled. This house bill like others appears to be drafted in response to the Court of Appeals decision, In RE: S.K. 466 Md 31 (2019).

In RE: S.K. involved a 16 year old high school student who sent a one-minute video of herself performing fellatio on a male to two other high school students. The sending student was charged in Juvenile Court with child pornography and obscenity. The issue before Maryland's highest was can a minor legally engaged in consensual sexual activity be her own pornographer through the act of sexting?

The court's simple answer was yes. What made this case alarming is that after a fall-out with two friends, the video she had sent to those friends who then sent it to many more students in the school. This practically assured that it could be viewed, sent and posted forever. The appellate case cannot and does not address the 16 year old's need for services through the juvenile justice system.

House Bill 180 is meant to address concerns raised by this case. It is properly placed in the juvenile section of the code and is the better solution to this problem.

House Bill 149 solves this problem by decriminalizing this type of behavior. While I understand the desire to not want to criminalize this type of juvenile behavior ignoring this problem is not the answer. When juveniles do engage in this type of behavior it is the Juvenile Court System that needs to intervene.

House Bill 180 fixes some issues that concerned many after in RE: S.K. but also addresses the need for intervention and education.

I urge an unfavorable report of House Bill 149.