

Unfavorable Response to SB208 Criminal Law – Indecent Exposure Within Sight of a Minor

Families Advocating Intelligent Registries (FAIR) seeks rational, constitutional sexual offense laws and policies for persons accused and convicted of sexual offenses.

This bill expands the existing common law misdemeanor crime for indecent exposure with prurient intent to have a harsher penalty if it occurs within sight of a child over the age of two, and there is more than a 4-year age difference. The punishment for this misdemeanor can be up to five years imprisonment and up to \$10,000, which actually puts it more on a level with a felony. Existing law for indecent exposure provides misdemeanor punishment of imprisonment not exceeding one year or a fine not exceeding \$1,000, or both.

This bill does not take into account normal child development, in which there could be a 7-year-old playing with himself in sight of a 3-year-old sibling or cousin, or a 10-year-old and 6-year-old at after-school care, with no real comprehension of what it means. Needless to say this would be disturbing to the adult who finds them, but does such behavior really necessitate such a harsh additional penalty? The bill's proponents will argue that such a situation has no "prurient intent;" however, if a distraught parent or neighbor makes the accusation to police, setting an investigation into motion, that 7- or 10-year-old could be put through the court system and expected to somehow explain himself, which would be far more traumatic for the older child than his behavior likely was to the younger viewer.

FAIR's position is that the existing language of Criminal Law 11-107 is sufficient. We urge an unfavorable response for SB208.

Sincerely,



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