



**TO: Sen. Floyd Prozanski, Chair
Members of Senate Judiciary Committee**

**FR: Amanda Dalton
Anna Braun
On behalf of Oregon District Attorneys Association**

RE: Concerns with SB 605

February 1, 2023

On behalf of the Oregon District Attorneys Association we offer the following comments and concerns as it relates to SB 605.

We understand the goal of the proponents is to not criminalize common behavior between teens that does not cause harm. However, in reviewing the bill and it's application to current law we are very concerned about unintended consequences.

These concerns include:

- As written, SB 605 would potentially provide a defense to the dissemination of child pornography
- The bill potentially could create an affirmative defense for juveniles engaging in human trafficking
- It may apply to images that include bestiality, torture, penetration with foreign objects, rape, and sadistic abuse
- The bill could disproportionately impact and endanger young girls, and
- It may remove an important tool for rehabilitating juveniles

We understand that the proponents certainly don't intend for these outcomes but we are concerned that SB 605 may allow underage sex traffickers to avoid punishment for creating child pornography.

ODAA hopes to work with the proponents of the bill to better understand their goal and address the unintended consequence of the bill in its current form.

We also offer one prosecutors perspective of the potential impact of this bill as drafted:

I have been a prosecutor for 13 years. I have been prosecuting juvenile sex abuse crimes for the last 8 years. I have also prosecuted adult sex abuse crimes. For the last couple of years I have also been a part of our Southern Oregon Child Exploitation Task Force.

While rare, on several occasions I have prosecuted a juvenile for Encouraging Child Sexual Abuse in the First or Second Degree. These have not been cases where a juvenile is caught duplicating sending or possessing one picture of child sexual abuse material (child pornography), but usually hundreds if not thousands of pictures with a range of ages.

Child pornography is often thought of as a victimless crime because rarely do we see the child in the images in the courtroom because we haven't been able to identify that child. But, this child is a person. A daughter, a son, a nephew a niece, a brother, a sister, or a friend. Each time that image is traded, the child is re-victimized when another person sees the image of this child being sexually abused. Additionally, it is often times hard, or impossible to determine the exact age of the children in these images.

These are not simply cases of teens looking at pornography. These are children who have real issues that will not go away without proper treatment and supervision. Often times when these youth start the treatment process we find out this youth also has hand on victims. The entire purpose of the juvenile justice system is to provide services to youth that lead to reformation and rehabilitation while learning responsibility and accountability. The hope is that these youth will leave the juvenile justice system and not enter the adult criminal system. Time and time again, I hear treatment in the juvenile justice system for sex crimes works and the recidivism rate for adults who have been through treatment as a juvenile is low.

I can think of one case in particular that stands out to me in particular. The youth had thousands of images of child sexual abuse material on his electronic devices that he had downloaded. Youth admitted and was placed under the jurisdiction of the juvenile court and order into treatment. The youth disclosed in treatment that he had almost 20 hands on victims. By giving the juvenile court the ability to handle these crimes the youth was placed into treatment to be able to address his sexual offense issues at a young age rather than waiting until he was adult where the option is prison.

The other important issue to look at is bullying. In this day and age with a camera on every phone and now what seems to be a cultural norm, to send "nudes", there is an incredible amount of bullying that goes on. Prior to Covid I had the opportunity to spend time going into classrooms and talk to students this. There is an incredible amount of cyber bullying going on and the effects are detrimental, not just to mental health, but entry into college and careers in their future.

Taking away the tools to deal with these issues in a system designed to rehabilitate, not punish, does not achieve what should be everyone's goal of helping to create well rounded, productive, law abiding members of our community.