

Bill Number: HB 180
Scott D. Shellenberger, State's Attorney for Baltimore County
Support

WRITTEN TESTIMONY OF SCOTT D. SHELLENBERGER,
STATE'S ATTORNEY FOR BALTIMORE COUNTY,
IN SUPPORT OF HOUSE BILL 180
SEXTING BY MINOR

I write in support of House Bill 180 which sets reasonable standards on how juveniles charged with "sexting" get handled. House Bills on sexting all appear 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.

House Bill 180 keeps juvenile conduct such as that displayed by S.K. a delinquent act, but makes sure of these things:

1. It is handled in the Juvenile Court.
2. The Court consider "sexting" as a mitigating factor.
3. The juvenile cannot be committed to custody unless there is an articulated extraordinary circumstance.
4. Importantly makes sure there is an educational component built into the sentence.
5. Does not require the juvenile to register as a sex offender.

This is a practical approach. We must take action in these cases because we must recognize that juveniles like S.K. need to be educated on how their actions of distributing this kind of material can adversely affect them for the rest of their lives. While I acknowledge that behavior like S.K.'s is happening frequently among those of a similar age, it does not mean it does not need to be addressed. Each individual offender can and should be evaluated to determine what, if any, services are needed for the juvenile.

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