



Sexting Involving Minors Is a Crime

Q: The more I hear about teens “sexting” each other the more concerned I am. What exactly is sexting?

A: Sexting is generally understood as creating, sending, receiving or showing sexually-oriented content, including images and words, via cell phone, email, social media or other online communications. Studies suggest as many as one-fourth or more of all teens are directly involved in sexting, while as many as half have seen inappropriate “sexts” of one kind or another.

Q: Is sexting a crime?

A: Between consenting adults (individuals over age 18), sexting is not a crime, although sexting-related misunderstandings or aggressive behavior can lead to criminal or civil liability for harassment, invasion of privacy and other offenses. Whenever sexting involves a minor, i.e., someone under 18, it is a crime. This is true whether the child accepted a “sext,” sent or forwarded it, received and kept it, posted it, or showed it to someone else on a school bus. The fact sexting might be shared between “consenting” minors does not mean it is okay.

Q: How can a minor know what kind of message would be considered “sexting”?

A: A Supreme Court justice once famously remarked that he couldn’t define obscenity, but he knew it when he saw it. While the definition of “sexting” may vary depending on who is evaluating the message, people generally agree that sharing any kind of nude images of persons under 18, whether or not their faces are visible, are improper.

Q: If sexting is a crime, should the police be called?

A: Yes. In Ohio, it is a crime to create, reproduce, advertise, buy, sell or possess any sexual material involving a minor. Someone who sexts can be charged with pandering, obscenity involving a minor, child endangerment, possessing nude images of a child, harassment and bullying, and other crimes. If a girl sends a picture to her boyfriend, both can be charged with sexting. If the boyfriend then forwards the image to his buddy, the buddy can be charged. Charges can be brought under both state and federal law, and children and their parents can also be sued based on sexting-related behavior.

Q: Are kids really prosecuted for child porn over this?

A: Prosecutors use their discretion, so they may or may not prosecute minors for child pornography, but it can happen. In the Cleveland suburb of Macedonia, several middle-schoolers were caught in December of 2014 engaging in a competition to see who could obtain the most nude photos of female classmates. During the competition, six girls sent nude images of themselves to

boys. Although no one involved was charged with a crime, the students were put in a diversion program. They were ordered to clean the police station and police cars, and warned to stay out of trouble for a year. However, in August of 2014 the Ohio Court of Appeals for Wood County upheld the conviction in juvenile court of M.W., who sexted images of himself having sex with a girlfriend. M.W. was found guilty of violating R.C. 2907.321, pandering obscenity involving a minor, a second degree felony, and was ordered to register as a Tier I juvenile sex offender.

Q: Does Ohio law specifically prohibit sexting?

A: No. Although many states have laws specifically addressing sexting between minors, some concerns expressed by both law enforcement and free-speech advocates have thus far prevented proposed sexting laws from being enacted in Ohio. The only laws currently on the books are those governing child exploitation. In addition, Ohio lawmakers passed a bill requiring schools to have policies and procedures for handling harassment, intimidation and bullying, including cyber-bullying.

Q: What can I do to help prevent my minor child from becoming involved in sexting?

A: First, make sure you warn your child about the potential consequences of sexting. Also, contact your school, talk to other parents, look online for help, or call the National Center for Missing & Exploited Children's 24-hour hotline at (800) 843-5678 for more information. If you have evidence of teen sexting close to home, don't hesitate to call the police. Police and prosecutors will use their discretion regarding prosecution, and they have the experience and resources to help minors appreciate the seriousness of the matter without making things worse.

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