

## Fact Sheet Series for the 133<sup>rd</sup> General Assembly

### Senate Bill 239 (Sponsor Senator Nathan H. Manning, 11/20/2019)

*As introduced // Refer to Judiciary Committee*

### Prohibit Sexting by person under the age of 19

#### Under Current Law:

- No Ohio Revised Code provision specifically addresses sexting between teenagers in similar age groups. As such, anecdotal evidence suggests local law enforcement and prosecutors face problematic choices when determining the appropriate charges for sexting-related conduct.
- For example, such conduct could be subject to the following existing sex offense charges:

OFFENSE	CLASSIFICATION
DISSEMINATING MATTER HARMFUL TO JUVENILES	Misdemeanor 1 <sup>st</sup> degree / Felony 5 <sup>th</sup> or 4 <sup>th</sup> degree
PANDERING OBSCENITY INVOLVING A MINOR	Felony of the 4 <sup>th</sup> , 3 <sup>rd</sup> , or 2 <sup>nd</sup> degree
PANDERING SEXUALLY-ORIENTED MATTER INVOLVING A MINOR	Felony of the 4 <sup>th</sup> , 3 <sup>rd</sup> , or 2 <sup>nd</sup> degree
ILLEGAL USE IN NUDIETY-ORIENTED MATERIAL OR PERFORMANCE	Felony of the 5 <sup>th</sup> , 4 <sup>th</sup> , or 2 <sup>nd</sup> degree

#### This Bill Would:

- Create an Ohio Revised Code section titled “Possession of Sexually Explicit Digital Material,” which would prohibit persons less than nineteen (19) years of age from creating, producing, distributing, presenting, transmitting, posting, exchanging, disseminating, or possessing sexually explicit digital material on a device (cellphone, laptop, etc.).
- Create a “Sexting Educational Diversion Program” as an alternative to prosecution of this specific charge. Under the bill, courts would be required to provide a diversion program containing the following components:
  - Legal consequences of sexting
    - Review of applicable federal and state statutes
  - Nonlegal consequences of sexting, including
    - the effect on relationships,
    - possible loss of educational and employment opportunities,
    - possibility of being barred or removed from school programs and extracurriculars
  - Proliferation of images once posted on the web
  - Connection to and consequences of cyber bullying

#### Pursuant to the Bill:

- Makes an affirmative defense available to those charged if they can prove by a preponderance of the evidence that they (1) did not ask for or otherwise solicit the material; (2) did not forward, send, or otherwise distribute or print the material; and (3) destroyed the material upon receipt.
- If a person enters but does not complete or otherwise violates the terms of the diversion program, they may be brought to trial and convicted of “Possession of Sexually Explicit Digital Material”, a first-degree misdemeanor punishable by 8 hours of community service.