

ASSEMBLY, No. 1561

STATE OF NEW JERSEY 214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

Sponsored by:

Assemblywoman PAMELA R. LAMPITT

District 6 (Camden)

Co-Sponsored by:

Assemblyman McKeon

SYNOPSIS

Creates diversionary program for juveniles who are criminally charged for “sexting” or posting sexual images.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 6/11/2010)

A1561 LAMPITT

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1 AN ACT creating a diversionary program for certain juveniles and
2 supplementing Title 2A of the New Jersey Statutes.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. a. As used in this act, “eligible offense” means an offense
8 under N.J.S.2C:24-4 in which:

9 (1) the facts of the case involve the creation, exhibition or
10 distribution without malicious intent of a photograph depicting
11 nudity as defined in that section through the use of an interactive
12 wireless communications device or a computer; and

13 (2) the creator and subject of the photograph are juveniles or
14 were juveniles at the time of its making.

15 b. The Attorney General, in consultation with the
16 Administrative Director of the Administrative Office of the Courts,
17 shall develop an educational program for juveniles who have
18 committed an eligible offense as defined under the provisions of
19 subsection a. of this section. The county prosecutor shall determine
20 whether a juvenile shall be admitted to the program. A juvenile
21 who successfully completes the program shall have the opportunity
22 to avoid prosecution for the eligible offense.

23 c. Admission to the program shall be limited to juveniles who:

24 (1) have not previously been adjudicated delinquent for or
25 convicted of a criminal offense under Title 2C of the New Jersey
26 Statutes or the laws of the United States;

27 (2) were not aware that their actions could constitute and did not
28 have the intent to commit a criminal offense;

29 (3) may be harmed by the imposition of criminal sanctions; and

30 (4) would likely be deterred from engaging in similar conduct in
31 the future by completing the program.

32 d. The educational program shall provide information
33 concerning:

34 (1) the legal consequences of and penalties for sharing sexually
35 suggestive or explicit materials, including applicable federal and
36 State statutes;

37 (2) the non-legal consequences of sharing sexually suggestive or
38 explicit materials including, but not limited to, the effect on
39 relationships, loss of educational and employment opportunities,
40 and being barred or removed from school programs and
41 extracurricular activities;

42 (3) how the unique characteristics of cyberspace and the
43 Internet, including searchability, replicability, and an infinite
44 audience, can produce long-term and unforeseen consequences for
45 sharing sexually suggestive or explicit materials; and

46 (4) the connection between bullying and cyber-bullying and
47 juveniles sharing sexually suggestive or explicit materials.

1 e. The Attorney General may promulgate guidelines to
2 effectuate the provisions of this act.

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4 2. This act shall take effect on the first day of the seventh
5 month after enactment.

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STATEMENT

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10 This bill establishes an educational program that is intended to
11 be an alternative to prosecution for juveniles who are charged with
12 a criminal offense for posting sexually suggestive or sexually
13 explicit photographs, usually on the Internet. The educational
14 program also would include juveniles who engage in the behavior
15 commonly known as “sexting,” in which sexually suggestive or
16 explicit pictures are transmitted via cell phones.

17 The bill requires the Attorney General, in consultation with the
18 Administrative Director of the Administrative Office of the Courts,
19 to develop an educational program for juveniles who commit an
20 eligible offense as defined in the bill. The county prosecutor would
21 determine whether a minor may be admitted into the program. A
22 juvenile who successfully completes the program would have the
23 opportunity to avoid prosecution.

24 Admission to the program would be limited to juveniles who: (1)
25 have not previously been adjudicated delinquent for or convicted of
26 a criminal offense; (2) were not aware that their actions could
27 constitute and did not have the intent to commit a criminal offense;
28 (3) may be harmed by the imposition of criminal sanctions; and (4)
29 would likely would be deterred from engaging in similar conduct in
30 the future by completing the program.

31 The educational program is to provide information concerning:
32 the legal consequences of and penalties for sexting or posting
33 sexual pictures online, including the applicable federal and State
34 statutes; the non-legal consequences of sexting or posting such
35 pictures, including, but not limited to, the effect on relationships,
36 loss of educational and employment opportunities, and being barred
37 or removed from school programs and extracurricular activities;
38 how the unique characteristics of cyberspace and the Internet can
39 produce long-term and unforeseen consequences for sexting and
40 posting such photographs; and the connection between bullying and
41 cyber-bullying and juveniles sexting or posting sexual images.

42 The teenage practices of sexting and posting sexual images
43 online are nationwide problems that have perplexed parents, school
44 administrators, and law enforcement officials. Prosecutors in
45 several states have charged teenagers who have engaged in these
46 behaviors with criminal offenses, including distribution of child
47 pornography.