

Vt. may set aside harshest penalties for 'sexting'

April 14 2009, By DAVE GRAM , Associated Press Writer

(AP) -- Parents, school districts and law enforcement have been grappling with what to do with teenagers who take sexually explicit photos of themselves with their cell phone cameras and send them to friends.

Vermont legislators are moving to get rid of one option: child pornography counts that result in lifetime listings on the state's Internet sex offender registry.

Legislation passed by the Vermont Senate and pending in the House would remove the most serious legal consequences for teenagers who engage in "sexting." The bill would carve out an exemption from prosecution for child pornography for 13- to 18-year-olds on either the sending or receiving end of sexting messages, so long as the sender voluntarily transmits an image of himself or herself.

The bill, however, would not legalize the conduct. Legislators believe prosecutors could still use laws against lewd and lascivious conduct and against disseminating indecent materials to a minor.

State legislatures, including Vermont's, have been cracking down on sexual predators in recent years, but lawmakers here say they don't want increasingly tough penalties applied to those caught up in what many regard as a youthful fad.

"We felt that it's poor behavior and it's not something we want to give

our OK to," said Sen. Richard Sears, D-Bennington and chairman of the Senate Judiciary Committee. "But at the same time, do we want a kid in jail? Do we want them tagged as a sex offender for the rest of their lives? And the answer is no."

Sexting appears to be widespread among teens. A December survey of 1,400 young people for the National Campaign to Prevent Teen and Unplanned Pregnancy found that one-fifth of girls had sent nude or seminude pictures of themselves electronically and that a third of boys had received such pictures, said Marisa Nightingale, senior adviser with the group.

Prosecutors around the country have tried various approaches against teenagers who used cell phones, e-mail or [social networking](#) Web sites to transmit naughty pictures of themselves.

Last month, a 14-year-old New Jersey girl was arrested for posting nude pictures of herself on MySpace. She was charged with child pornography and distribution of child pornography for allegedly posting nearly 30 explicit pictures on the site. But it's likely she'll avoid jail because she's a juvenile, according to a prosecutor handling the case.

In Pennsylvania, 17 students involved in distributing photos of nude or scantily clad female classmates accepted a county prosecutor's offer that their cases would be resolved if they participated in a five-week after-school program on sexual harassment and similar topics. Three balked and sued in federal court to stop prosecutors from filing charges.

In Ohio, a 15-year-old high school girl faced charges for sending racy cell phone photos of herself to classmates. She eventually agreed to a curfew, no cell phone and supervised Internet usage.

In Vermont, authorities have charged an 18-year-old from Morrisville,

Isaac Owusu, with directing two teenage girls to videotape or photograph themselves performing sex acts on themselves and send the results to him. The defense maintains the girls were willing participants.

In that case, Chittenden County State's Attorney T.J. Donovan said Owusu's directing the events is what resulted in charges.

But he agreed with backers of the legislation that volunteering to take and send racy photos of oneself shouldn't result in criminal charges.

"I don't think it serves any public interest to paint those kids ... as sex offenders," said Donovan, chief prosecutor in Vermont's most populous county.

Ernie Allen, president of the National Center for Missing and Exploited Children, said he sympathized with Vermont officials for not wanting to exact heavy penalties for a teenager's foolishness. But he worries that exempting the behavior could have the unintended consequence of immunizing genuine sexual predators from prosecution.

"Our concern is that decriminalizing sexting is a blanket response that is too broad to a problem that is best handled on a case-by-case basis," Allen said.

Donovan, Allen and others agreed that the real solution is educating teens about the risks of sexting.

Allen said his group's "Think Before You Post" campaign was aimed at getting children to think about the practical consequences of sending materials that can be reproduced and end up living on the Internet forever.

Forty percent of kids who had sent sexting messages said they had done

so as a joke, Nightingale said her group's survey showed. "But you're basically relinquishing control of how people see you in this very sensitive area, which is your sexuality," she said.

Brendan Houston, an 18-year-old senior at Montpelier High School, said he thinks sexting is pervasive but "kind of childish."

There's one thing it isn't, in his view.

"That is not a crime," he said. "It's absolutely not a crime."

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