

# States weigh relaxing penalties for teen sexting

June 13 2011, By DAVID KLEPPER , Associated Press

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(AP) -- A congressman who sends an X-rated photo of himself jeopardizes his reputation and his job. But in many states, teens caught doing the same thing can risk felony charges, jail time and being branded sexual offenders.

That's because a minor who transmits a sexually explicit photo of themselves according to many state laws, is manufacturing and distributing child pornography. Lawmakers across the country, however, now say the problem of teen sexting didn't exist when they enacted harsh punishments for child porn and are considering changes that would ensure minors don't face jail time for youthful mistakes.

"Let's just call this what it is: stupid," said Rhode Island state Rep. Peter Martin, a Democrat from Newport who is sponsoring a bill to downgrade teen sexting from a felony to a juvenile offense. "These are kids we're talking about. I don't think minors should face these severe punishments just for being stupid."

Legislatures in Rhode Island and 20 other states have considered bills this year to adjust penalties for teen sexting, according to the National Conference of State Legislatures. California lawmakers are considering legislation that would enable schools to expel students caught sexting. Florida lawmakers voted to punish teen sexting with a \$60 fine and community service.

Lawmakers in New York, where U.S. Rep. Anthony Weiner is

embroiled in a sexting scandal, have introduced legislation that would allow judges to send teens who send explicit photos to counseling instead of jail if prosecutors agree they meant no harm.

Studies show that one in five teens has electronically transmitted explicit photos of themselves, and one third say they have received such photos. It's a 21st century update of "I'll show you mine" with one critical difference: lewd photos can be passed on with the push of a button and live forever on the Internet.

"It's an extraordinarily common behavior among kids, like it or not," said Amy Adler, a [law professor](#) at New York University who has studied how child pornography laws have been applied to sexting. "I hope lawmakers and prosecutors figure out quickly how to address it, because it's not going away."

Parents and educators are the most likely to discover that a teen has sent or received lewd photos. Even when police or prosecutors get involved, most cases don't result in felony charges. But it has happened.

Six Pennsylvania teens faced felony child pornography charges after police found underage boys swapping nude pictures of female classmates. Three girls were charged with manufacturing and distributing child porn, and three boys were charged with possession. The case ended up in juvenile court, where the teens were sentenced to community service and curfews.

In another Pennsylvania case last year, a federal judge blocked a prosecutor from filing felony charges against teen girls caught in a sexting investigation.

Last month, a Michigan prosecutor announced he had authorized felony charges against three 13- and 14-year-olds caught sexting.

In Rhode Island, a 16-year-old avoided felony charges last summer but pleaded guilty to disorderly conduct and indecent exposure. The boy had shown friends an explicit phone video of himself with a female student. He was sentenced to 200 hours of community service and prohibited from owning a cell phone with a camera for one year.

Prosecutors and judges need more discretion to treat each cast of sexting differently, according to Sherry Capps Cannon, a former principal and high school administrator who recently graduated from Southern University Law Center in Louisiana, where she wrote a law review article examining laws surrounding teen sexting.

There's a big difference, she said, between an adult who emails an explicit photo of a young teen and a 15-year-old who sends such a photo to a boyfriend. But laws in most states make no distinction.

"The law has to acknowledge the intent of the person sending the photo," she said. "Right now, laws designed to protect children are being used to punish them."

The legislation working its way through the Rhode Island General Assembly would make sexting by minors a juvenile offense similar to truancy. The bill has passed the House and awaits a vote in the Senate. Under current law minors who transmit indecent photos of themselves could face criminal penalties including prison time and fines of up to \$5,000.

Teens who forward indecent photos of other minors, however, could still face [child pornography](#) charges.

State Sen. John Tassoni led a state task force examining cyberbullying and other problems caused by teens using technology in inappropriate ways. He said parents and schools can help stop [sexting](#) by reminding

students that mistakes committed in cyberspace can have long-lasting, real-world consequences.

But as Weiner's recent case shows, he said, there's no age limit for inappropriate Internet use. And Tassoni doesn't see the problem going away anytime soon.

"I tell these kids that whatever they're putting out there will live forever," said Tassoni, D-Smithfield. "We need to discourage it, but charging them with felonies doesn't seem to be the way to do it."

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Citation: States weigh relaxing penalties for teen sexting (2011, June 13) retrieved 1 May 2024 from <https://phys.org/news/2011-06-states-penalties-teen-sexting.html>

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