

**Ohio Judicial Conference**

The Voice of Ohio Judges

**Senate Judiciary Committee**

**Paul Pfeifer**

**Proponent Testimony on House Bill 355**

Chair Bacon, Vice Chair Dolan, Ranking Member Thomas, and members of the Senate Judiciary Committee, I thank you for this opportunity to submit proponent testimony for House Bill 355 on behalf of the Ohio Judicial Conference. I am Paul Pfeifer, Executive Director of the Ohio Judicial Conference, former Justice of the Supreme Court of Ohio and former State Senator and Representative.

The Ohio Judicial Conference supports H.B. 355 for the opportunity to create needed statutory guidance on “sexting,” or the distribution of sexual explicit digital material, such as cell phone pictures of nude minors. Courts have struggled with teenage sexting since camera phones became common in the early 2000s. Despite efforts in previous General Assemblies, no sexting-related statutes have been enacted, and the term is not yet defined in the Ohio Revised Code.

Sexting cases are currently treated inconsistently across the state. Some counties already utilize diversion programs, as would be required by H.B. 355. Other counties prosecute sexting behavior under felony-level pandering statutes, which can result in labeling the juvenile as a sex offender.

H.B. 355 strikes a balance between judicial and prosecutorial discretion to determine which behavior is truly egregious and which behavior is a merely a bad choice. The bill does not “legalize” sexting. Sexting behavior would be punishable as a first-degree misdemeanor offense. Teenagers that agree to enter a diversion program and satisfactorily complete the program will have their charges dismissed. The diversion program will educate teenagers on the hazards of their actions without the potential lifelong implications of sex offender status. The diversion program will not be available to anyone who has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for committing a prior sex-related offense.

Although the OJC supports this legislation, it conflicts with current law that considers a person a juvenile until age 18. Whether that should be changed is a matter for another day, but this bill applies to people up to age 19. If the intent of the bill is to capture all people who may still be in high school—for example, an 18-year-old senior—than the bill can still ensure that juvenile courts have diversion programs without requiring such programs for all other courts that have no jurisdiction over juveniles. The OJC asks that the bill be amended to either apply only to juveniles or to apply specifically to juvenile courts.

We thank you for the opportunity to testify in support of H.B. 355. We thank the sponsors, Representative Hill and former Representative Rezabek, their aides, and caucus staff for considering our previous feedback. We look forward to working with them and members of this Committee to pass this needed legislation to provide consistent adjudication of sexting behavior across the state. I am available to answer any questions you may have.