



# Ohio Judicial Conference

The Voice of Ohio Judges

## House Criminal Justice Committee Judge Adolfo A. Tornichio Proponent Testimony on House Bill 355

Chair Manning, Vice Chair Rezabek, Ranking Member Celebreeze, and members of the House Criminal Justice Committee, I thank you for this opportunity to submit proponent testimony for House Bill 355 on behalf of the Ohio Judicial Conference.

I am Judge Adolfo A. Tornichio. I have served on the Greene County Common Pleas Court, Juvenile Division, since 2015. Previously, I served as an Assistant Greene County Prosecuting Attorney for 16 years and prosecuted both juvenile delinquency and adult felony cases. I am a member of the Ohio Judicial Conference's Juvenile Law and Procedure Committee and the National Council of Juvenile and Family Court Judges' Military Committee. I served as a two-term member of the Supreme Court of Ohio's Board of Character and Fitness and as a former President of the Greene County FOP Lodge 37.

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 Judicial Conference supports this legislation, extending the age limit to 19 is problematic from a jurisdictional standpoint. The law generally recognizes 18 year-olds as adults, and although it is certainly within the purview of the legislature to revise that policy, it should not be done for only one type of charge.

We thank you for the opportunity to testify in support of H.B. 355. We thank the sponsors, Representative Hill and 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.