



Ohio Judicial Conference

The Voice of Ohio Judges

Senate Judiciary Committee
Judge Jan Long
Proponent Testimony on House Bill 239

Chair Eklund, Vice Chair Manning, Ranking Member Thomas and members of the Senate Judiciary Committee, I thank you for this opportunity to submit proponent testimony for Senate Bill 239 on behalf of the Ohio Judicial Conference.

I am Judge Jan Michael Long. I have served on the Pickaway County Common Pleas Court Probate/Juvenile Division since 1996. Previously, I served in the Ohio Senate for 10 years where I represented at various times the counties of Athens, Gallia, Jackson, Lawrence, Meigs, Pickaway, Ross, Scioto and Vinton. I am the Co-Chair of the Ohio Judicial Conference's Probate Law & Procedure Committee, member of the OJC's Juvenile Law and Procedure Committee and Past President of the Ohio Association of Probate Judges. I have served as an Adjunct Professor for the Columbus State Community College, teaching courses in Criminal Law, Government and the Law, Juvenile Procedure and Probate Practice and Procedure, and as an Assistant Prosecuting Attorney for Pickaway County and Assistant Law Director for the City of Circleville.

The Ohio Judicial Conference supports S.B. 239 because it creates needed statutory guidance and consistency on "sexting," or the distribution of sexual explicit digital material. 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. S.B. 239 is the best effort to date on creating a sexting statute that accomplishes three crucial requirements:

- Defines the behavior as misdemeanor-level conduct
- Avoids placing the child on the sex offender registry for sexting behavior
- Focuses on educating the child of the consequences of sexting

Sexting cases are currently treated inconsistently across the state. Some counties already utilize diversion programs, like those required by S.B. 239. Other counties prosecute sexting behavior under felony-level pandering statutes, which can result in labeling a juvenile as a sex offender. S.B. 239 strikes a balance between judicial and prosecutorial discretion to determine which behavior is truly egregious and which behavior is merely a bad choice made by a young person. 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 registration.

Although the OJC supports this legislation overall, there is one wrinkle. The bill conflicts with current law that considers a person a juvenile until age 18. Whether the age of majority should be changed is a matter for another day, but this bill as-introduced 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, a 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 – defined by age or school status – or to apply specifically to juvenile courts.

We thank you for the opportunity to testify in support of S.B. 239. We thank the sponsor, Senator Manning, for reintroducing this bill, and we look forward to working with him and members of this Committee to improve and pass this needed legislation to provide consistent adjudication of sexting behavior across the state. I am available to answer any questions you may have.