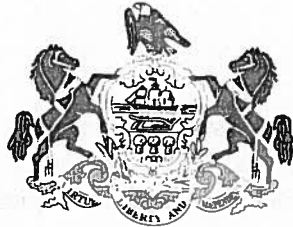


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**MEMORANDUM**

**To:** All House Members  
**From:** Representative Seth Grove  
196<sup>th</sup> Legislative District  
**Date:** February 1, 2011  
**Subject:** Sexting (Former HB 2189)

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I am planning to reintroduce House Bill 2189 from the 2009-2010 legislative session. As I am sure many of you are aware, "sexting" has become a major problem within the Commonwealth. It seems like we are constantly hearing about minors partaking in this activity without regard to the consequences of their actions. In the near future, I am planning to re-introduce legislation which will add a new offense of sexting by minors to Title 18 (Crimes Code).

Presently, the act of "sexting" falls under section 6312(c) (relating to sexual abuse of children). Any person who knowingly sells, distributes, delivers, disseminates, transfers, displays or exhibits to others or who possesses for the purpose of sale, distribution, delivery, dissemination, transfer, display or exhibition to others, any book, magazine, pamphlet, slide, photograph, film, videotape, computer depiction or other material depicting a child under the age of 18 years engaging in a prohibited sexual act or in the simulation of such act commits an offense. A person is guilty of a felony of the third degree for a first offense of this statute and is guilty of a felony of the second degree for second or subsequent offenses.

In fact this activity is presently graded as a felony can lead to many problems for both the minors who are partaking in "sexting" and the prosecutors who are trying to punish those who partake in these illegal activities. While "sexting" is a very serious problem, I do not believe young individuals should have to spend the rest of their life fighting through the various obstacles a felony conviction creates based on what many see as a "stupid teenage decision." My legislation would create a new offense that specifically applies to minors who engage in "sexting" as long as the electronic communication which is transmitted or possessed is a depiction of him or herself or of another minor who is 13 years of age or older engaging in sexually explicit conduct. A minor who violates this section commits a misdemeanor of the second degree. This new section will not apply to electronic communications which depict either sexual intercourse, deviate sexual intercourse or the penetration, however slight, of the genitals or anus of a minor with any part of a person's body, masturbation, sadism or masochism. This new section will also not apply to visual depictions of minors engaging in sexually explicit conduct if the depiction was taken,

made, produced, used or intended to be used for or in furtherance of a commercial purpose. Additionally, my legislation provides for the use of adjudication alternatives, prohibits the use of secure detention or placement and provides for expungement if a minor is convicted of violating this new section.

If you would like to cosponsor this legislation, please contact Lisa Burkholder at [lburkhol@pahousegop.com](mailto:lburkhol@pahousegop.com) or 717-783-2655. Thank you for your consideration.

**Previous Cosponsors:**

Quinn, Baker, Bear, Boyd, Carroll, Clymer, D. Costa, Cutler, Geist, Gingrich, Goodman, Kauffman, Mahoney, Moul, Murt, Readshaw, Siptroth, True, Waters, Youngblood, Major and Saylor