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M E M O



Senate of Pennsylvania

February 16, 2011

TO: ALL SENATORS
FROM: Stewart J. Greenleaf *Stewart*
SUBJECT: Cosponsorship -- **Juvenile Justice amendments**

I am introducing legislation amending the Crimes Code, Title 18, and the Judicial Code, Title 42 of the Pennsylvania Consolidated Statutes, relating to juvenile justice. The bill amends the Crimes Code to establish the criminal offense of "cyberbullying and sexting by minors." The crime is a misdemeanor of the second degree and only applies if the minor knowingly transmits an electronic message, including a visual depiction of a person in a state of nudity, to another minor with the intent to coerce, intimidate, torment, harass or otherwise cause emotional distress to the other minor. Consensual activity is not a crime under this provision.

There have been many incidences of sexting around Pennsylvania and district attorneys have struggled with finding the appropriate offense for this inappropriate activity. Teenagers have been charged with everything from disorderly conduct to child pornography. I believe that a teenager should be punished for this activity but only when it is not consensual activity and it is done with the purpose of harassing another teenager.

The Crimes Code is also amended relating to the expungement of juvenile records. As juveniles make decisions to go to college, join the military or seek employment, it is important that they are able to move forward without minor criminal offenses on their record. The legislation streamlines the expungement of juvenile adjudications and summary offenses committed by juveniles. These provisions are similar to the provisions relating to juveniles in House Bill 264 of last session.

The legislation makes several changes to the Juvenile Act provisions within the Judicial Code. Some of these changes result from the Luzerne County juvenile court scandal. The purpose clause is amended to emphasize the use of the least restrictive punitive sanctions and evidence-based practices in juvenile justice. The provisions relating to the juvenile's right to counsel are amended to provide a rebuttable presumption in favor of indigency and the appointment of counsel.

The juvenile courts do not have jurisdiction over summary offenses. As a result, a juvenile who is charged with a misdemeanor or even a felony and adjudicated delinquent in juvenile court may be treated less harshly than a juvenile found guilty of a summary offense by a magisterial district judge. In addition, the records of a juvenile who is adjudicated delinquent are protected while the records of a juvenile found guilty of a summary offense are public.

While giving the juvenile courts jurisdiction over summary offenses would overwhelm those courts, making them less effective, I believe that some changes are necessary to make the treatment of juveniles more equitable regardless of whether the juvenile is before a magisterial district judge or a juvenile court judge. Under my legislation summary cases involving a juvenile would continue to be heard by a magisterial district judge but the juveniles will be provided many of the same protections that are available to juveniles adjudicated delinquent. These provisions are similar to the provisions in Senate Bill 1121 of last session relating to cases heard by magisterial district judges.

If you would like to cosponsor this legislation, please contact Pat Snively of my office by e-mailing her at psnively@pasen.gov.