

WHAT IS SEXTING?

Sexting in the vernacular refers to the voluntary dissemination of sexually explicit images from one person to another usually on cellular devices. Connecticut General Statutes [CGS] do not define “sexting”, as this conduct is not illegal. However, when the conduct involves children, “sexting” may fall within Child Pornography laws.

“Child pornography” is defined in CGS 53a-193(13) as “any visual depiction...of sexually explicit conduct, where the production of such visual depiction involves the use of a person under sixteen years of age engaging in sexually explicit conduct...”

“Sexually explicit conduct” is defined in CGS 53a-193(14) as “actual or simulated (A) sexual intercourse including genital-genital, oral-genital, anal-genital, or oral anal physical conduct, whether between persons of the same sex, or with artificial genitalia, (B) bestiality, (C) masturbation, (D) sadistic or masochistic abuse, or (E) lascivious exhibition of the genitals or pubic area of any person.”

Possessing child pornography by an adult has severe penalties that carry mandatory minimum sentences of 5 years, 2 years, and 1 year; depending on the number of images one possesses. But what happens when our children are voluntarily sending and receiving sexually explicit depictions amongst each other?

This scenario is captured within Connecticut statutes. CGS 53a-196h states that, “No person who is 13 years of age or older but under 18 years of age may knowingly possess any visual depiction of child pornography that the subject of such visual depiction knowingly and voluntarily transmitted by means of electronic communication device to such person and in which the subject of such visual depiction is a person 13 years of age or older but under 16 years of age.” This is best explained in this scenario. Child A is under 18. His girlfriend, child B, is 15 and sends child A sexually explicit images of herself. If child A knowingly possesses more than 2 of them and does not immediately destroy them, then child A is guilty under this statute and faces 1 year in prison. But what about child B? Child B is subject to subsection (2) of the same statute for being over the age of 13 but under 16 and transmitting “child pornography” of herself to child A. She also may face up to a year in prison.

Where possession of child pornography by an adult is a major felony, “sexting” between teenagers can still subject a child to prosecution and incarceration. There are several factual and legal hurdles that any prosecution needs to surmount and an experienced dedicated criminal lawyer can offer defenses necessary to defend your child’s constitutional rights.