

**CHARLIE BAKER**  
*Governor*



**KARYN POLITO**  
*Lt. Governor*

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## **Baker-Polito Administration to Re-file Bill Modernizing the Laws that Govern Explicit Images**

*Legislation will protect children, provide more tools for District Attorneys, and update state law*

**BOSTON** – Today, Lt. Governor Karyn Polito announced that the Baker-Polito Administration will re-file An Act Relative to the Harmful Distribution of Sexually Explicit Visual Material. First filed on April 25, 2017, this proposal modernizes the laws governing the distribution of sexually explicit images and empowers District Attorneys with additional tools to protect children. Lt. Governor Polito joined Secretary of Health and Human Services Marylou Sudders, Deputy Secretary of Public Safety and Security Jennifer Queally, District Attorney David Sullivan, Chelsea Police Chief and Mass Major City Chief President Brian Kyes and members of the Legislature to announce the filing at a meeting of the Governor’s Council to Address Sexual Assault and Domestic Violence of which she is the chair.

“This legislation furthers the hard work that Lt. Governor Polito and the Council have done to address child trafficking, protect Massachusetts’ most vulnerable children and expand programs for survivors,” **said Governor Charlie Baker**. “Last session, this bill received strong bipartisan support from legislators, educators and district attorneys and we look forward to working with the Legislature this session to pass it.”

“The time to act on this important legislation that would help combat cyber-bullying through prevention education, empower prosecutors to appropriately handle cases involving minors and explicit images and help state law keep up with technology is now,” **said Lt. Governor Polito, Chair of the Governor’s Council to Address Sexual Assault and Domestic Violence**. “Our Administration will continue to work with our legislative colleagues across the aisle to pass this bill in order to protect all children in the Commonwealth.”

Under this proposal, the first step in an explicit images case involving minors will be to enroll in an educational diversion program rather than go through the juvenile justice process and potentially be

committed to the Department of Youth Services. While District Attorneys and the Attorney General will still have the right to bypass educational diversion programs in certain instances, the focus will now be on educational diversion rather than legal punishment.

“The legislation highlights the strong collaboration among the Governor’s Council, police, the District Attorney’s Office and community-based organizations to protect our young people,” **said Secretary of Health and Human Services Marylou Sudders**. “State laws supporting survivors must be adapted to keep up with our rapidly-changing technology and the Legislature is urged to pass this important bill.”

“Diverting young people who have made a mistake away from the juvenile justice system and toward education gives them the chance to change their behavior in a positive way,” **said Secretary of Public Safety and Security Tom Turco**. “Providing this flexibility to prosecutors will lead to better outcomes for young people and for our society as a whole.”

Massachusetts law as currently written, calls for minors who engage in peer to peer distribution of sexually explicit visual material to be subject to prosecution for the distribution or possession of child pornography. This legislation seeks to update the law consistent with our lives and 21st Century technology. Should a case proceed to the juvenile justice system, this bill affords District Attorneys the discretion to decide whether a minor should be charged with a misdemeanor rather than a felony. The flexibility provided under this law will help ensure minors that do not belong in the juvenile justice system do not wind up there.

“I am honored to join the Governor and Lieutenant Governor on this legislation which will protect kids from the harmful effects from transmission of explicit images,” **said Representative Jeffrey N. Roy (D-Franklin)**. “Our legislation will provide additional tools for law enforcement along with educational programming that brings a coordinated effort and holistic approach to address an increasingly prevalent behavior among teens. I look forward to partnering with Lieutenant Governor Polito in the effort to get the bills enacted.”

“This legislation helps address the harmful impacts of youth sexting while diverting young persons from the criminal justice system,” **said Northwestern District Attorney David Sullivan**. “It will create positive results for youth while holding the offenders accountable”

The legislation re-filed by the Baker-Polito Administration will also require schools to provide age-appropriate education on the risks and harmful effects of the creation, possession, and distribution of sexually explicit visual depictions of minors as they relate to cyber-bullying. Schools will be given the autonomy to use their existing cyber-bullying policies as a framework to incorporate education for their students on the harmful effects of distributing explicit images and any bullying associated with it.

“The positive benefits that are exhibited from diversion and restorative justice programs in terms of both accountability for the offender as well as justice, in terms of satisfaction and accord, for the victim for these non-violent types offenses far outweighs any criminal sanctions that are imposed by the criminal justice system and the resulting negative consequences in terms of both stigma and negative labeling,” **said Chelsea Police Chief and Mass Major City Chief President Brian Kyes**. “As police officers we do not want to be in a position where we are escorting young men and women who are classified as juveniles through the doors of criminal justice system unless there is no other viable option available. Among other things, the Governor’s bill serves to rectify the intent of these dated statutes pertaining to

distribution of sexually explicit visual material that have been demonstrated to have unintended consequences over the years especially as it pertains to our youth.”

This legislation seeks to close a loophole under current law by creating penalties for adults who distribute a sexually explicit image for purposes of revenge or embarrassment. While current law addresses non-consensual recording of an unsuspecting person, it does not address instances where someone distributes an image without consent regardless of whether the initial image may have been taken with consent. This legislation closes the gap in our law by creating a new felony offense and empowering judges in criminal proceedings to ensure an explicit image in question is permanently destroyed.

If passed, Massachusetts will join states from over half the country that have enacted similar legislation to protect their citizens.

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