



Protect Minnesota's Kids Act Fact Sheet

Pending Bills HF226, HF229, SF1826, SF1220

Bills are changing with updated PMKA language to: HF3881, HF3925, SF3894, SF3893

Minnesota has a serious child abuse problem that can no longer be ignored.

Minnesota has effectively decriminalized child sexual abuse imagery. First, let's be clear what we are talking about. The 2021 Minnesota Sentencing Guidelines Commission defined child pornography as "images [which] frequently depict children, toddlers, and infants being sexually assaulted, physically abused, tortured and humiliated."

Minnesota identifies three types of child pornography crimes; **possession, dissemination** (trading) and **production** which involves criminal sexual contact.

Incredibly, Minnesota statutes for these crimes aren't even in the criminal section of our code—it's in the obscenity section! Even worse, Minnesota sentencing guidelines for these types of crimes are among the weakest in the nation. **Probation is given to predators convicted of possessing, distributing, and producing child sexual abuse imagery 74-86% of the time, with minimal to no prison time.**^a

Law enforcement report that to get these predators off our streets in Minnesota, they must get the federal government involved to prosecute them at the federal level. They also report being demoralized by Minnesota prosecutors and courts consistently failing to take meaningful action to fix this problem. All the predators viewing this material are a threat to children.

Data also shows over 55% of these predators are "contact offenders" and are actively abusing children at the time of conviction. Getting them off the street and into prison is imperative for public safety.^b

Where does this data come from?

The data comes from the National Association to Protect Children (NAPC) an organization that has helped pass laws at the state and federal level to protect America's kids. They spent tens of thousands of dollars compiling data on Minnesota sentencing from 2001 to 2016. The data in that report was obtained from the Minnesota Sentencing Guidelines Commission.

We have included additional statistics for the years 2014-2018 from the Minnesota Sentencing Guidelines Commission 2021 report.

Did the legislature do anything based on NAPC's data?

Representative Matt Grossell, a former law enforcement officer elected to the Minnesota House of Representatives in 2016 introduced legislation to strengthen Minnesota's laws, but ran up against bipartisan indifference. Grossell introduced legislation in 2017, 2019 and 2021 (HF226 and HF229). Minor improvements were made but little has changed.

In 2019 the legislature made it easier for judges to give the maximum allowable penalty for **possession** of child sexual abuse imagery **10 years**, if certain conditions were met.^c The added

conditions included if the victim was under the age of 13, if there was a probation violation, and if, while committing the possession crime, the convict was a registered sex offender. But this does nothing to address the fact that **9 out of 10 predators with this material receive no prison time at all because most are prosecuted at the minimum penalty level, not what the maximum allows.**

In 2021 the legislature slightly increased the penalties for those convicted of **dissemination**, but again this improvement rarely comes into play, because prosecutors most often go for the lesser charge of possession.

How bad is it really?

This 2008 graphic compiled by law enforcement showed 7,688 individual computers (as identified by software serial numbers, not IP addresses) accessing child pornography, child rape and torture videos and images in Minnesota alone.

To put this into perspective, even though it does not represent the level of online activity today, let's use the 7688 number. Over a 5-year period that means there would be at least 40,000 individual trackable incidents of computers accessing child sexual abuse imagery. Yet, from 2014-2018, there were **only 478 convictions** for child pornography! Of that, **only 32 were convicted for dissemination** of child sexual abuse imagery! Eight went to prison, 24 received probation.



Minnesota trafficking in the worst types of child abuse imagery. Source: ICAC Data Network.

Clearly, the vast majority of predators weren't even caught, and of those who were convicted, most never went to jail and remained in the community roaming freely among children.

The 2021 Legislative changes could potentially prosecute the 32 dissemination convictions at the higher penalty level, but they would do nothing about the other 427 convictions for possession of child sexual abuse imagery. **Without mandatory minimums, with prosecutors going for the lesser charge of possession, the result is the same – probation only.**

Minnesota's Sentencing Guidelines Commission (MSGC) seems intent on maintaining the status quo.

Another minor Legislative reform required the Minnesota Sentencing Guidelines Commission (MSGC) to review the state's penalties involving the sexual abuse of children.

The MSGC's initial report examined the five-year period of sentencing in our state from 2014-2018. Their results validated the report issued by the NAPC in 2016.

The MSGC justifies the status quo. According to Willis Krumholz, in his Alpha News article, "As an excuse for this decision, the MSGC cherry-picked data from several other states in order to make Minnesota look like it was in-line with the rest of the nation. The results were embarrassing. The MSGC says that according to "statutorily permissible" sentences, Minnesota is in line with the rest of the nation. But there's a difference between what's in the statute and what actually happens in sentencing, with the latter being up to the MSGC."^d

By the MSGC's own data, Minnesota is among the worst in the nation in terms of child safety, and possibly even dead last. As stated above, Minnesota gives prison in only 14 percent of possession crimes and 25 percent of dissemination crimes. That is far lower than the states picked out by the MSGC — Oregon, Washington, North Carolina, and Kansas.”

According to the MSGC's own data, “Minnesota had the weakest sentencing of any of the states examined, for all types of child exploitation crimes.”

What can we do about all this?

The Action Plan

1. **Spread the word** that Minnesota has a serious child sexual abuse problem and that Legislative indifference and inaction will no longer be tolerated.
2. **Contact your Minnesota Representatives.** Ask them to pass PMKA, toughen penalties and give our law enforcement officers more resources to combat child predators, especially those who are trading in child sexual abuse imagery.^e
3. **Push for passage of the Protect Minnesota Kids Act** (pending bills HF226, HF229, SF1826, SF1220) that:
 - Adopt the federal criminal code's tougher sentencing for child predators caught receiving, distributing, and producing child sexual abuse imagery to require mandatory prison.
 - Mirror federal penalties for production, distribution, receipt, and possession of child sexual abuse imagery.
 - Create a new crime of “Receipt,” with the same penalties as dissemination, adopting the federal standard.
 - Close a potential loophole by adding “accessing with intent to view” to the crime of possession.
 - Adopts the federal standard which increases the penalty for possession of child sexual abuse imagery when the victim is under the age of 13.
 - Requires persons subject to stays of adjudication in criminal sexual conduct cases to register as predatory offenders.

^a Based on the MN Sentencing Guidelines Commission's examination of the last 5 years of sentencing.

^b National Association to Protect Children's Criminal Justice Reform Report [Microsoft Word - DANGEROUS STATE-PROTECT Minnesota Report 2016 FINAL.docx](#)

^c https://www.revisor.mn.gov/bills/text.php?number=SF802&version=latest&session=ls91&session_year=2019&session_number=0

^d [Report on child pornography admits Minnesota is lax on predators | Analysis - Alpha News](#)

^e [In Minnesota, People Who Sexually Abuse Children Are Usually Given Just Probation \(thefederalist.com\)](#)