

Protect Minnesota's Kids Act

Fact Sheet

Minnesota has a problem: *Too many of our children are being abused, leading to life-long hurt. They have no voice, so we intend to be their voice.*

- For **criminal sexual conduct (CSC) involving a child under the age of 13**, data shows that in most Minnesota counties,¹ offenders are being given a stay (probation) and no prison sentence **50 to 60% of the time**.

Some of these offenders are even receiving a stay of imposition, reducing the crime to a misdemeanor, and not required to register as sex offenders.²

- As an excuse, prosecutors claim they are following the Minnesota Sentencing Guidelines, and that cases involving child-victims are hard to try. **But some county attorneys, following the same guidelines, have a starkly better track-record.**³

When it comes to prosecuting predators for possessing and sharing child sexual abuse imagery, there's no such excuse. All the prosecutor's need to do is have a technical expert take the stand.

- But Minnesota has effectively **decriminalized the possession of child sexual abuse imagery**. Our law on this material isn't even in the criminal section of our code—it's in the obscenity section.

Minnesota has effectively decriminalized child sexual abuse imagery

- **About 85% of predators possessing child sexual abuse imagery receive only probation.**⁴ In many of the larger Minnesota counties, well over 90% receive probation.

Getting tough on these predators isn't just policing what people look at, says Grier Weeks, a senior executive at PROTECT. The material being traded online depicts the violent abuse, torture, and rape of young children—even toddlers. The material, says Weeks, should break our hearts. It is "far worse than heroin or meth. ... It's like anthrax."

It's so bad that police officers in Minnesota routinely say that if they want to put the bad guy away, they have to get the feds involved.

- Certainly, **all of the predators viewing this material are an active threat to the kids around them**. And as best we can tell, **over 55% of these predators are also "contact offenders" with local child victims**. Getting them off of the street and into prison is imperative for public safety.

¹ In Hennepin county, about half of CSC offenders—where the victim is under age 13—are given a stay, or probation, which means they served a small amount of local jail time but received no prison sentence (looking at data from 2007 to 2016); Anoka County gives out probation 60% of the time; In Washington County, where Woodbury is the largest city, probation is given 57% of the time; in Blue Earth County, where Mankato is the largest city, probation is given 52% of the time.

² See, <https://alphanewsmn.com/minnesota-isnt-being-tough-on-child-predators/>.

³ Polk County Attorney Greg Widseth's office gives out probation under 20% of the time, meaning over 80% receive prison sentences, when CSC involves a victim under the age of 13. Even in St. Paul's Ramsey County, John Choi gives CSC offenders probation only about 40% of the time when there is a child victim.

⁴ Based on the Minnesota Sentencing Guidelines Commission's examination of the last 5 years of sentencing.

Where does this data come from?

The data comes from PROTECT, a child protection group with a national reach that has passed countless laws at the state and federal level to protect America’s kids. They spent tens of thousands of dollars to compile data on Minnesota sentencing from 2007 to 2016. Based on this data, some lawmakers tried to toughen Minnesota’s laws, but ran up against bipartisan indifference in the Senate and outright resistance from many county attorneys.

Did the legislature do anything based on PROTECT’s data?

As a result of PROTECT’s data, a bill HF 4470 was introduced on March 16, 2020 that had language requiring the county attorneys to **report when they gave probation and why for these crimes**, but this reporting language—as best as we can tell—was taken out of the final bill.⁵ In the final version,⁶ it was watered down to only say that a court, when giving a particular type of probation called a “stay of adjudication,” must justify the decision “in writing and on the record.” In practice, this is a useless reform, and investigating such justifications requires the time-consuming effort of sifting through individual cases after the fact. **It means that it is still not possible to easily obtain county-level data on sentences given to child predators.**

Another supposed reform increased the maximum allowable penalty for possession of child sexual abuse imagery from 5 years to 10 years,⁷ if certain conditions are met. But this does nothing to address the fact that **about 9 out of 10 predators with this material aren’t receiving any prison time at all**, no matter what the maximum allowable penalty is.

Minnesota’s Sentencing Guidelines Commission seems intent on maintaining the status quo:

Yet another supposed reform that occurred after the PROTECT data was released was to get the Minnesota Sentencing Guidelines Commission (MSGC) to review the state’s penalties involving the sexual abuse of children.

The MSGC’s initial reports, examining the last five years of sentencing in our state, validate PROTECT’s work. Shockingly, convictions of **producing** child sexual abuse imagery have resulted in probation **74% of the time**.

Despite this, the MSGC is intent on justifying the status quo. MSGC’s initial report on Minnesota sentencing for child sexual abuse imagery cherry-picked a small sample of four other states to compare against—glossing over the fact that compared to the national average, Minnesota has extremely lax penalties against child predators.

⁵ See, https://www.revisor.mn.gov/bills/text.php?number=SF2699&version=0&session=ls90&session_year=2018&session_number=0

⁶ See, https://www.revisor.mn.gov/bills/text.php?number=SF111&version=0&session=ls91&session_year=2019&session_number=0

⁷ For dissemination, the allowable maximum penalty was increased from 7 to 15 years, if certain conditions are met.

Nevertheless, the MSGC’s cherry-picked comparisons are damning. According to PROTECT, the MSGC’s own report shows that “Minnesota elects to prosecute a far greater percentage of cases...as simple possession,” which carries softer penalties than dissemination, compared to the other states chosen by the MSGC. Overall, 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,” says PROTECT. In Oregon, one of the state’s the MSGC compared against, only 19% of offenders convicted of production received probation, and **in North Carolina it was 0%.**⁸

—What can we do about all this?—

The Action Plan:

1. **You** can spread the word that Minnesota has a problem, and that our state’s indifference to child abuse relative to the rest of the country will no longer be tolerated.
2. **We** can pass laws that toughen penalties, and give our law enforcement officers more resources⁹ to combat child predators, especially those who are trading in child sexual abuse imagery. Contact your MN Representatives.
3. **We** can push for another bill that:
 - Adopts the federal criminal code’s tougher sentencing for child predators with child sexual abuse imagery—where receipt, distribution, and production all carry often serious mandatory prison time.
 - Mirrors federal penalties for production, distribution, receipt, and possession of child sexual abuse imagery.
 - Creates a new crime of “Receipt,” with the same penalties as Dissemination, adopting the federal standard.
 - Adds “accessing with intent to view” to the crime of Possession, to close a potential loophole.
 - Increases the allowable penalty for possession of child sexual abuse imagery when the victim is under the age of 12, adopting the standard from federal law.¹⁰

⁸ Meanwhile, when it comes to prosecution rates, PROTECT says that MSGC’s own data finds that “Washington State prosecuted child sexual abuse imagery at a much greater per capita rate than Minnesota.” And that while “Minnesota appears at first glance to prosecute at a higher rate than North Carolina, [according to MSGC’s report],” that’s only because “North Carolina law enforcement agencies referred nearly ten times the number of cases to federal prosecutors as Minnesota did...” See also, <http://mn.gov/msgc-stat/documents/meeting%20materials/2020/February/InterstateCPReview.pdf>

⁹ See, <https://thefederalist.com/2020/02/24/in-minnesota-people-who-sexually-abuse-children-are-usually-given-just-probation/>

¹⁰ See, https://www.revisor.mn.gov/bills/text.php?number=HF4470&version=0&session=ls91&session_year=2020&session_number=0