



# VERMONT CHILDREN'S ALLIANCE

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Child First  
Advocacy Center of  
Rutland County

The Chittenden  
Advocacy Center  
at CUSI

The Child Advocacy  
Center at The  
Family Place/  
Windsor County  
Unit for Special  
Investigations

Windham County  
Safe Place  
CAC/SUSI

Northwest Unit for  
Special Investigations/  
Child Advocacy Center

Bennington County  
Child Advocacy Center and  
Special Investigations Unit

OUR House of  
Central Vermont

The Child Advocacy Center  
at the Springfield Area  
Parent Child Center

Caledonia Special  
Investigations Unit, Inc.

The Orleans County  
Child Advocacy Center

The Orange County  
Special Investigations Unit

Addison County Unit  
Special Investigations, Inc.

**To:** Chairwoman Maxine Grad  
Vice Chairman Willem Jewett  
House Judiciary Committee members

**From:** Jennifer Poehlmann, Esq.  
Vermont Children's Alliance, Executive Director

**Date:** February 18, 2015

**RE:** H. 105

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Thank you for allowing me to offer the following remarks in support of H.105 – An act relating to disclosure of sexually explicit images without consent.

As you may recall, the Vermont Children's Alliance is the accredited state chapter of the National Children's Alliance and professional membership organization for Vermont's Child Advocacy Centers (CACs) and Special Investigation Units (SIUs) – it is on behalf of the directors of these programs all across our state that I am honored to speak.

The SIUs/CACs strongly support H.105 – An act relating to disclosure of sexually explicit images without consent. As the county based entities charged with responding to sex crimes and with supporting victims, these programs have an intimate knowledge of what is occurring in our communities and existing gaps and challenges in our state's response. The enactment of H.105 would address a significant gap.

As you have heard from other witnesses, existing laws are insufficient for dealing with the increasing incidence of unconsented to distribution of sexually explicit images. Our programs are charged with supporting the victims in these situations and have seen first-hand the extremely devastating impact this has on their lives – Vermont teenagers dropping out of school, suicide attempts, loss of jobs, relationships, depression, drug use, etc. Sadly, while our programs strive to provide the best support they can, there is often one significant thing they cannot do – bring charges against the alleged perpetrator and hold these individuals accountable for their intentional acts. Our current law frequently forces us to try and fit a square peg in to a round hole – which simply does not work. We therefore have identified it is a public policy priority to support and advocate for

changes to augment current laws to keep pace with changing technology and use of the internet and social media.

We note three concerning consequences of our current law:

- 1) First, the obvious being there is no current prohibition in criminal law that would **generally** apply to the unconsented to distribution of sexually explicit images, absent some other aggravating circumstance. Our current voyeurism statute was enacted many years ago, and arguably well before the current incidence of distribution of sexually explicit images was anticipated.
- 2) Second, our current voyeurism statute also only applies to the creation of images that occur without **both** the knowledge **and** consent of the victim. We have cases come to our programs where the image is created without the consent of the victim, but which the victim did know about. There currently exists just such a case in the Northwest part of our state where while in a relationship a man took nude pictures of a woman without her consent but which she had knowledge of. After they broke up, he then hacked in to her employer's website, posted the many pictures on that public website, and posted them all over social media with her name and address. Simply googling her name would cause all of the naked pictures to show up.

State investigators and the prosecutor are struggling to try to find some criminal charge that might provide some level of accountability and justice for the victim and are not easily finding anything under current law to hold this person accountable for devastating this woman's life. If enacted, H.105 would address situations such as this by putting the focus not on the creation of the image, but criminalizing the unconsented to distribution.

- 3) Third, if the pictures are of a minor, one charge which sometimes fits the allegations is distribution of child pornography under 13 V.S.A. §2824. This is a far more serious crime than that proposed in H.105 and is a significant hammer. With currently only a square peg for a round hole, SIU prosecutors report sometimes feeling compelled to proceed with the distribution charge, generally where the acts alleged and resulting harm are particularly egregious. The struggle is how to proceed in these cases when the alleged perpetrator is a minor. There is an appropriately understandable reluctance to charge minors and young adults with a crime that was really established to protect children from the behavior of adults – and again with a crime that carries some pretty heavy penalties. H.105 would remedy this situation by providing a more appropriate tool for charging and prosecuting these cases and give prosecutors the flexibility to employ less harsh means if warranted.

As an aside, Vermont's SIUs and CACs are not simply concerned with reacting to this problem and with the pursuit of bringing criminal charges. These programs have seen such an increase in the incidence of this behavior, and again see such devastation occur in people's lives, that they have devoted resources and time to outreach and prevention; this includes the creation and distribution of educational brochures for young adults, providing educational forums at colleges, and speaking at high schools and middle schools.

This problem is real, this problem is devastating, and we are grateful to the Committee for devoting its time to improving our ability to support our communities. Thank you!