

February 13, 2024

TESTIMONY OF THE OFFICE OF THE PUBLIC DEFENDER (OPD) REGARDING:

House Bill No. 7101

ENTITLED, AN ACT RELATING TO CRIMINAL OFFENSES – ELECTRONIC IMAGING DEVICES.

Chairman Craven and Members of the House Judiciary Committee:

The Office of the Public Defender opposes HB7101 in its current form. While we acknowledge the importance of addressing issues surrounding the non-consensual creation and dissemination of explicit material, we believe that the current language of the legislation is overly broad and may lead to unintended consequences. Our key concerns with HB7101 are as follows:

1. **Vague Terminology:** The legislation employs the terms "created by digital device or altered by digitization," which, in its current form, lacks clarity and precision. The lack of a clear and specific definition creates ambiguity and uncertainty, leaving individuals without a clear understanding of what conduct is considered unlawful. Vague and ambiguous language in legislation can lead to potential due process violations, as individuals may be unable to discern the boundaries of prohibited conduct. This lack of clarity may result in arbitrary enforcement, leaving individuals vulnerable to charges based on subjective interpretations rather than well-defined legal standards.
2. **Free Speech Considerations:** The broad scope of the language used in HB7101 raises concerns about potential infringement on free speech rights. The legislation may unintentionally criminalize artistic, political, or expressive works that utilize digital technology in their creation, even if they are not intended to exploit or harm individuals.

The OPD respectfully suggests that the Committee considers holding the bill for further study to address these concerns. Clear and specific definitions, as well as explicit safeguards to protect free speech and due process rights, should be incorporated to ensure that the legislation achieves its intended purpose without unduly restricting constitutionally protected activities.

Sincerely,

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