

'Sexting court' teaches perils of lewd selfies - Special program for teens is found only in Hillsborough

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TAMPA — An embarrassed girl and her anxious mother sat before Circuit Judge Ralph Stoddard last week, not quite sure what was going to happen.

The judge was gentle and informal in the hearing held after the teenager was cited for “sexting,” sending lewd photographs of herself to her boyfriend, who showed them to friends.

“What do you think about all this?” the judge asked after explaining the process.

“I’m not very happy about it,” the mother said with a nervous laugh.

“Are you angry with her, with us?” Stoddard asked.

“No, obviously I can’t be angry with the county,” the mother said. “I’m angry that it happened.”

Stoddard says the case was fairly typical of what he sees in sexting court, a special court established in Hillsborough County after the Legislature adopted a law in 2011 making the first violation for juveniles a civil infraction.

The Legislature, however, neglected to include a mechanism for enforcement. So court officials in Tampa designed their own.

The law, which was enacted after reports that children were being prosecuted under criminal child pornography laws, was intended as a sensible approach to what was a new problem. The idea was to create consequences and enable intervention and education, while not sending kids into the juvenile justice system.

The law was also designed to put an end to the possibility that juveniles would be prosecuted as child pornographers, a felony offense.

But a state appeals court last month ruled that the law is unenforceable. The 4th District Court of Appeal also said only the Legislature can set out the enforcement procedure, a conclusion that might invalidate Hillsborough County’s approach.

One of the authors of the law, state Sen. Joseph Abruzzo, D-Wellington, is drafting a fix. Some of the changes under consideration reflect what already is happening in Hillsborough County, such as the creation of a citation to be issued to juveniles for sexting and requiring them to attend cyber safety education programs where available.

A draft of the proposal provided by Abruzzo’s office also would give the option to require first-time offenders to perform eight hours of community service or pay a \$60 penalty. The proposal would require officials to use 80 percent of the money collected to provide cyber safety training for minors, with the rest designated for court administrative costs.

Until the Legislature acts, though, the law has essentially become dormant.

As Stoddard explained in the sexting hearing last week, the process established in Hillsborough County was similar to the way traffic tickets are handled.

He told the mother and daughter that if the teen wanted to contest the charge, he would hold a trial in which the deputy who ticketed her would testify. The judge would then make a decision. If he found the girl guilty or if she admitted her guilt, she would be ordered to take a cyber safety class and that would be the end of it.

“If you ever do it again, though, then you’ll be charged in a juvenile delinquent petition (with the potential for) harsher penalties,” Stoddard said. “That’s pretty much what the law is.”

With the law in flux, Stoddard had something to add: “A new wrinkle has arisen, though. ... A court over on the east coast — out of Fort Lauderdale, I think, in Broward County — has found the entire statute possibly not enforceable right now. So there’s a chance I might not be able to make you do anything. So I’ll kind of leave it up to you. You can go to that class and get it out of the way. And if the statute’s found enforceable, that will probably satisfy your obligation. Or you can just sit back and wait to hear from us. It’s up to you.”

“We might as well get it over with,” the mother said, after talking to her daughter. “She’s not denying that she did it.”

Stoddard said in an interview that as far as he knows, Hillsborough County is the only jurisdiction in the state that created a special sexting court division in response to the law. The idea arose after court officials, the state attorney's office, the county clerk and law enforcement convened to figure out what to do about the law because prosecutors don't have the authority to try juveniles for civil infractions.

In addition to creating a special court, they also drafted a citation form to be completed by law enforcement and handed to juveniles like a traffic ticket. And they created a sexting and cyber safety course.

Court counselor Kristen Slowiczek said she has given 38 presentations of the roughly 45-minute course since May 2013. The last she checked, Slowiczek said, none of her students has committed a second offense.

Included in the advice given in the presentation are tips on what kids should do if they receive sexts — don't send to anyone else; report to a school official or the minor's parent or guardian; tell law enforcement — and if they are targets of cyber bullies: calm down, block the bully's communications and tell a trusted adult.

Stoddard said Hillsborough court officials treat sexting as a safety issue and strive to keep their approach low-key. The teens who appear in court usually are accompanied by horrified parents, which makes them easy to work with, he said.

"You have to teach the kids that it's not safe; it's not a good thing to do," the judge said.

Stoddard described the court's approach as more of a diversion process than a legal tribunal, directed at education instead of punishment.

"I think we're doing what the Legislature intended everybody to do," he said.

As for other jurisdictions, Stoddard said, "I think they were just ignoring it. ... I don't think they knew what to do."

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The law "makes abundant common sense," Stoddard said. The Legislature "just didn't go all the way. I probably ought to get in touch with them and show them how we do it and suggest that's the easy way to do it. We got everything done. We had to build this thing from scratch."

As much attention and angst as sexting is creating, it's not as widespread as some people think, according to Sameer Hinduja, co-director of the Cyberbullying Research Center at Florida Atlantic University. Hinduja said the most reliable research suggests that about 13 percent of children have received one of these images, and about 9 percent have sent them.

"This is definitely not happening to the vast majority of kids," Hinduja said, adding, "We don't want even one of our kids to make that mistake."

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But he said the best remedy is not a law enforcement or a judicial system approach. The solution, he said, is for educators and parents to teach kids the perils and that they can't control the permanence of the images. Vulnerable children, he said, should not be criminalized.

Hinduja said kids who sext aren't deterred by laws. Sexting happens when kids are caught up in their emotions and the excitement of taking risks, he said. They don't stop and think about the law.

"It's a moment-of-passion type of offense."

But Hinduja said he understands that people feel like they need to have a law on the books. "Politicians and legislatures are always clamoring to have something, and that's valid," he said. "I still think we would bear a lot more fruit through educational initiatives, help spread awareness and focus in on this issue. Legislation and penalties are not going to be the magic bullet by far."

But in court last week, Stoddard endeavored to address the issue with the teenage girl and her mother.

"I suspect that since you're here and appropriately mortified, it's probably not going to happen again," he said.

"It better not," the mother said, her voice tinged with warning to her daughter.

To the girl, the judge said, "You pretty much learned your lesson."

"Yes," came the quiet response.

The judge told the girl that if she doesn't attend the class, there won't be any issues.

The mother wanted to know if there might be any more repercussions from what happened.

"I think you've been repercussed enough," the judge said. "Wouldn't you agree?"

"Yes, sir," the mother said.

"Pretty traumatic having to deal with that school resource officer," Stoddard said, addressing the girl, who agreed. "Pretty traumatic having to lie awake all night last night having to worry about coming to court this morning, drive all the way down here, sit here and wait, wondering what's going to happen. And I suspect you'll probably never come up here again. Will you?"

"No, sir."

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