

Senate Judiciary Committee
February 8, 2011
Testimony of Jennifer Roth
Opponent of Senate Bill 63

Chairman Owens and Members of the Committee:

SB 63 would add to the crime of sexual exploitation of a child, currently found at K.S.A. 21-3516 (recodified in Sect. 74 of Ch. 136 of the 2010 Session Laws):

- (1) Employing, using, persuading, inducing, enticing or coercing a child under 18 years of age, *or a person whom the offender believes to be a child under 18 years of age*, to engage in sexually explicit conduct with the intent to promote any performance;
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- (4) promoting any performance that includes sexually explicit conduct by a child under 18 years of age, *or a person whom the offender believes to be a child under 18 years of age*, knowing the character and content of the performance.

The penalty for violation of these subsections is a severity level 5 person felony if the child is 14 to 17 years old (or a severity level 7 person felony for an attempt) and an off-grid person felony if the child is under 14 (both attempts and completed offenses – this is part of Jessica’s Law).

I oppose SB 63 for two reasons:

This law criminalizes people for possessing legal items – the fact scenario to which this law would apply is to people who possess images/videos or view performances of overaged people but believe them to be underaged. It is already illegal to possess images/videos or view performances of underaged people.

This law makes it illegal to THINK certain things about legal items, which runs afoul of the Constitution.

As of the writing of this testimony, I do not know if this bill comes about because of a case, another state’s law, an incident somewhere, etc. Once I hear the background and the proponent(s), I will be in a better position to address the concerns I see with this language. Thank you for your consideration.

Sincerely,



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Attachment 5