

Testimony in Support of HB 2002; Amendment to Sexual Exploitation Statute 21-5510

Name: Joseph Todd Morgan

Title: Detective/Forensic Examiner

Agency: Olathe, KS Police Department

Heart of America Regional Computer Forensics Laboratory (HARCFL)

Phone: Cell (816) 260-4370 or Desk (816) 584-4318

Email: jtmorgan@olatheks.org

Ladies and gentleman of the House Judiciary committee,

First off, I wanted to say thank you for allowing me the opportunity to present my case in favor of amending part of the current Sexual Exploitation Statute (21-5510).

My name is Joe Morgan, I am a detective with the Olathe, KS police department. I have been a sworn officer for over 17 years and employed with the Olathe, KS police department since August 2001. During my career I have worked as a patrol officer, problem oriented police officer, school resource officer and now as a detective. In 2007, I was assigned to the Heart of America Regional Computer Forensics Laboratory (HARCFL) as a computer forensic examiner. As an examiner, I can honestly say that a majority of the computer examination that I conducted were related to the sexual exploitation of children investigations. In 2010, I was reassigned to the Olathe, KS police department's High Tech Crime unit where I continue to conduct computer examinations and remain an associate to the HARCFL.

While working in the High Tech Crimes unit, my partner and I are continuously conducting digital examinations (cell phones and computers) for detectives in both the property crimes unit and crimes against persons unit. Which leads me to the reason why I am writing this testimony today. I would like to discuss the findings of a case that presented an issue once the examination was concluded.

Since this case has not been adjudicated, identifiable information has been withheld to protect the integrity of the case. In 2014, an examination request was sent to me by one of the crimes against children detectives. Per the report, the victim (under the age of 10) located a small digital recording device placed inside a bathroom item while she was taking a shower. The victim then took the item and showed her mother. The mother removed the recording device and called the police. The Olathe Police arrived on scene and recovered the recording device, two computers and a cellphone. The digital examination revealed the identity of the suspect, the recording device had been covertly placed to record the victim in the shower without her knowledge and it is has been happening for several months. The examination also revealed that the recording device was strategically placed to record the midsection of the victim while she showered.

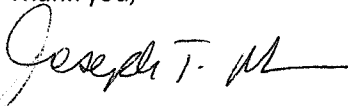
As the case was being prepared to send to the Johnson County District Attorney's office for charging, we had to amend the charge from Sexual Exploitation of a Child to Breach of Privacy. The reason is because the current Sexual Exploitation Statute reads "**Exhibition in the Nude**" and the Kansas Supreme Court states if a child is unaware of the recording it **can't be Exhibition**. Due to this verbiage, the charge went

from being an off grid felony (Sexual Exploitation) to a severity level 8 person felony (Breach of Privacy). As you can see this presents an issue because the subject is then not required to register as a sexual offender. I believe by amending the statute to read "**Appearance in the nude, with or without knowledge of the victim**" would allow law enforcement to correctly charge those who are preying on the innocence of children. I believe that someone who covertly places a camera in a room to specifically record a young child either undressing or in the nude does so with intent of sexual-gratification. Ask yourself other than sexual gratification why would they hide this device and why would they record it covertly. This is completely different from those images that may be in possession of grand-parents of their grand-children taking a bath or swimming in the nude. There is no intent to hide these images and it is not done for sexual gratification.

I have investigated numerous child pornography cases and can honestly tell you if I located these same videos on a subject's computer who did not record them, they would be charged with possession of child pornography. The reason is law enforcement can say there is no reason for this person to have this recording on their computer except for the own sexual gratification. This is often supported by the countless images and/or internet history of child pornography located amongst the videos.

I hope my testimony has helped you all to support this bill so that law enforcement can continue to fight for those who can't fight for themselves.

Thank you,

A handwritten signature in black ink, appearing to read "Joseph T. Morgan", with a stylized flourish at the end.

Joseph Todd Morgan

Detective

Olathe, KS Police Department