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Regarding SB3951 – Protect Act of 2022 – In Opposition

Dear Distinguished U.S. Judiciary Committee Members:

This digital age in which we live has brought forth many technological innovations helpful to us, but it has also allowed for an unprecedented presence of illegal pornographic images of minors. The National Association for Rational Sexual Offense Laws – NARSOL – deplores the sexual exploitation of minors and fully supports appropriate criminal justice measures to both punish wrongdoers and to discourage future involvement in this abhorrent practice.

SB3951, the Protect Act of 2022, will create a new mandatory minimum sentence of five years for every child porn offender who possesses child pornography and will prohibit judges from sentencing below the Guidelines range for facts found during trial or admitted by the defendant. NARSOL has serious concerns about the efficacy of this bill as a punishment and as a discouragement because it is based on several false assumptions.

Clicking to view an image can be accidental.

Not a one of us has failed to receive unsolicited emails with links and attachments. Those of us a little bit older and a little bit wiser have learned, sometimes the hard way, that clicking on these links or attachments can be a dangerous, even a criminal, thing to do. But not everyone who has made that choice has been older or wiser. Many troubled and insecure young adults have, to their own detriment and on occasion inadvertently, clicked and regretted it.

Not all viewers of child pornography are the same.

Mandatory minimum sentencing makes the unsupportable assumption that everyone who commits a certain crime is alike in motivation, behavior, and the propensity for future crime. But there is a huge difference between a teen who looks at pictures of child sexual abuse in an attempt to understand the abuse she herself was subjected to as a young child and the older, hardened viewer who merely see these abused children as objects. Indeed, the [U.S. Sentencing Commission on the issue of non-production child pornography](#) says “[The] sentencing scheme should be revised to account for technological changes in offense conduct, emerging social science research about offender behavior, and variations in offender culpability and sexual dangerousness.” (p.2)

Longer sentences are not a deterrent.

The length and type of punishment meted out should serve as a deterrent to reoffense and no more. [Our own U.S. Justice Dept.](#) says, “. . . prison sentences (particularly long sentences) are unlikely to deter future crime. Prisons actually may have the opposite effect.” A [report from the Sentencing Commission](#) says, “. . . unduly long prison terms are counterproductive for public

NATIONAL ASSOCIATION FOR RATIONAL SEXUAL OFFENSE LAWS

Fighting to restore dignity & constitutional rights to millions

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[safety](#) and contribute to the dynamic of diminishing returns as the prison system has expanded.” In other words, we are spending more and more in resources on initiatives that not only fail to address the problems but also make them worse.

Better alternatives to lengthy incarceration, or in some cases any incarceration, include any or a combination of: community service, treatment programs/mental health treatment (pornography can be an addiction), community supervision, and where appropriate, restorative justice initiatives.

Extra punishment for child pornography viewing will not appreciably reduce abuse.

Unlike a lone, [highly criticized study](#) out of Butner, NC, a wide variety of studies that have adhered to standard procedures have reached [a similar conclusion](#): “The consumption of child pornographic material alone does not seem to predict hands-on sex offenses” and “Though some consumers [of pornography] do commit hands-on sex offenses as well – the majority of child pornography users do not.”

While viewing illegal pornography certainly merits punishment, it is essential to allow judicial discretion based on each individual defendant and situation. Also essential is reform that focuses on persons who force children into these situations, filming and exploiting them.

It is time for America to govern better, not harsher. NARSOL opposes in the strongest possible terms any bill that creates new mandatory minimum sentences, continues mandatory minimums that already exist, and removes judicial discretion from our courts. NARSOL asks the Committee on the Judiciary of the United States Senate to vote no on SB3951, the Protect Act of 2022.

A handwritten signature in blue ink that reads "Brenda V Jones" with a stylized flourish at the end.

Brenda V. Jones, Executive Director
National Association for Rational Sexual Offense Laws