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TO: Vincent Cardi, Chair, Committee on Civil Remedies for Unauthorized Disclosure of Intimate Images Act, Uniform Law Commission

CC: Brian Lewis

FROM: State Senator Stephanie Hansen, Esq.

DATE: August 22, 2017

RE: Liability for Disclosure of Intimate Images of Minors

I learned of the Uniform Law Commission's Committee on Civil Remedies for Unauthorized Disclosure of Intimate Images Act this summer as a result of research on behalf of a constituent. I have reviewed the draft statute from the July 2017 meeting and write to suggest that the final statute specifically address minors and state that a minor cannot consent to the disclosure of an intimate image.

My constituent contacted me because a video of his daughter had been posted online, and although state police have been diligent in removing it when it reappears, he is frustrated that his remedies, on behalf of his daughter, are limited.

The July 2017 draft of the statute states as follows:

- (a) Except as otherwise provided in subsection (b), a person may not:
 - (1) disclose or threaten to disclose an intimate image of an individual without the consent of the individual if the individual can be identified from the intimate image itself or from the image and identifying characteristics displayed in connection with the image; and
 - (A) the person knows or should have known that the depicted individual did not consent to the disclosure; or
 - (B) the person knows or should have known that access to the intimate image was made possible by theft, bribery, extortion, fraud, false pretenses, or exceeding authorized access to property or to an account, message, file, device, or resource.
 - (2) Silence or lack of protest or resistance by itself is not consent.

I suggest that the final model statute specifically state that a minor cannot give consent to the disclosure of an intimate image. This would be consistent with laws against child pornography and human trafficking, which do not allow for the sexual exploitation of children and put the burden on the person engaged in the activity to determine the age of the person depicted or involved in the activity.

Thank you for your consideration of this suggestion.