

A 16-Year-Old Girl Is Facing Child Pornography Charges for Making a Sex Video of Herself

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[Sexting](#)

A finding of guilt would be an attack on the autonomy and self-ownership of all young people

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(Juan Moyano | Dreamstime.com)

Maryland's highest court will soon decide whether a 16-year-old girl, "S.K.," can face child pornography charges for taking a video of herself performing a sex act and sending it to a few of her close friends.

S.K. shared the video, in which she performs consensual oral sex on an unidentified male, with two close friends and fellow students, who later reported her to the school resource officer. S.K. was the only person charged in connection with the alleged crime.

The Special Court of Appeals upheld S.K.'s conviction, ruling that the consensual nature of the sex act in question was irrelevant, as was the fact that it was not illegal for S.K. to perform the act. Taking a video of the act and sending it to other people constituted distribution of child pornography, according to the court's decision.

"The First Amendment to the United States Constitution did not protect conduct of a minor who distributed a digital video file of herself engaged as a subject in consensual sexual conduct," [wrote the court](#).

The Maryland Court of Appeals' ruling is expected later this year. The court, which is Maryland's equivalent of a state supreme court, heard oral arguments in February. The proceedings [are recorded here](#). S.K.'s attorney,

Public Defender Claudia Cortese, argued that the statute in question was not intended to punish minors for being featured in pornographic materials, but rather, to protect them. Punishing S.K., as the state has attempted to do, is cruel and authoritarian.

The state, on the other hand, has asserted that S.K. needs guidance, and that probation and a mandatory mental health evaluation were reasonable outcomes, *The Washington Post* [reports](#):

At her initial hearing, the prosecutor said the state was not "trying to prove a point in going forward with this case," but that "the state believes that the respondent is in need of some guidance, rehabilitation for something deeper" and "is just trying to help her."

Because her case on the distribution of child pornography was in juvenile court, the teen never faced a mandatory sentence or the possibility of having to register as a sex offender. She was put on probation and referred for a mental health evaluation.

That teens shouldn't send sexy videos to each other—because they are bound to get out, cause embarrassment, and raise legal issues—is something S.K.'s parents, teachers, and school administrators could have impressed upon her without the heavy-handed involvement of the police and courts. It is draconian to charge a 16-year-old girl with trafficking in child pornography because she willingly filmed herself performing oral sex. Upholding S.K.'s conviction would set a disturbing precedent.