



The Law and Technology: What Parents Need To Know



"YOUR MOTHER AND I FOUND OUT YOU'VE BEEN BLOGGING. WE DON'T KNOW WHAT THAT MEANS, BUT WE'D LIKE YOU TO STOP."

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Think teens have angst? Try parents!



Have Smartphones Destroyed a Generation?

More comfortable online than out partying, post-Millennials are safer, physically, than adolescents have ever been. But they're on the brink of a mental-health crisis.

Our kids are growing up on
a digital playground and no
one is on recess duty.

-@KevinHoneycutt



What's on the agenda?

- Cyberbullying
 - School, civil, and criminal consequences
- Sexting
 - Sextortion and criminal consequences
- Internet Safety
 - Predators, identify theft

Bullying Definitions

- 2010 CDC and USDOE sponsored summit on bullying-prevention efforts
- CDC's new uniform definition (as of 2015):
 - "Bullying is any unwanted aggressive behavior(s) by another youth or group of youths who are not siblings or current dating partners that involves an observed or perceived power imbalance and is repeated multiple times or is highly likely to be repeated"
- Nebraska: "ongoing pattern of physical, verbal or electronic abuse"

Bullying is a National Concern

- 73% of students reported being bullied, 44% within the last 30 days in a national survey (2017)
- Bullying/cyberbullying not currently a crime in Nebraska
- Nebraska schools required to have anti-bullying policies

School Consequences for Bullying and Threats

- NEB. REV. STAT. 79-254 *et seq.*
- Reasons for discipline:
 - "ongoing pattern of physical, verbal or electronic abuse"
 - "any activity forbidden by NE law"
- "On school grounds" = 1-1 devices
- Consequences:
 - Loss of district technology use
 - Loss of extracurricular privileges
 - Suspension
 - Expulsion

Bell v. Itawamba County Sch., (5th Cir 2015)

- Student made offensive rap recording
 - "betta watch your back/Ima serve this n***a like I serve the junkies with some crack"
 - "Run up on T-Bizzle/ I'm going to hit you with my rueger"
 - "You f***ing with the wrong one/going to get a pistol down your mouth"
 - "middle fingers up if you want to cap that n***a"
- Posted to Facebook, YouTube
 - 2,000 hits

Bell v. Itawamba County Sch., (5th Cir 2015)

- Principal heard recording (on a student's phone)
- Student who made recording:
 - 7 day suspension
 - Assigned to the alternative school for the remainder of the quarter
 - No school activities
- Sued, arguing that:
 - Allegations against coaches were true
 - Lyrics were not "true threat"
 - First Amendment protection

Bell v. Itawamba County Sch., (5th Cir 2015)

- Court :
 - Since social media can be accessed on phones, all comments about school have potential to affect school
 - “paramount need for school officials to be able to react quickly and efficiently to protect students and faculty from threats, intimidation and harassment intentionally directed at the school community”

Instagram and Bullying



“Sinstagram” or “Finstagram”

Experts warn of teens using secret social media accounts

By Jordan Sheikh | Posted: Wed 11:18 PM, Mar 01, 2017 | Updated: Thu 6:24 AM, Mar 02, 2017



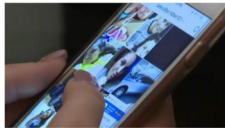
OMAHA, Neb. (WOWT) – A made up name, a fake picture: your child could be living a life on social media you don't know about. It's called a **Sinstagram** account, essentially a fake Instagram, and it's becoming increasingly popular.

"I see a lot of partying photos or like drunk photos of people passed out in fields," said Sinstagram user Alyson Zaleski. "Oh, everybody has them, my sister is 12 and has one."

How does it work? Instagram lets users set up multiple accounts: kids are creating one account for public viewing, and one for private.

"You only give that username to people that you are comfortable letting see the sort of bad things, it's not always bad, often times it's drinking, sometimes it's sexualized content," said KSB School Law Karen Haase.

So how do you know if your child has one of these accounts? Physically borrow their phone, pull up Instagram on there, up at the top, you'll see this drop down menu, click that, and that is where any secondary accounts will pop up.



How to check if your child has a second Instagram

- Option 1: Ask them
- Option 2: Grab their phone
- Option 3: Look at suggested friends
- Option 4: Google image search

Civil Consequences

- Student and parents getting sued
 - Homeowners insurance might pay
 - Money judgments
 - Home/car foreclosure
 - Injunctions and restraining orders against kids

Medley v. Doe (Texas 2011)

- High school "hoes" page
- Four students with administrative privileges
- One of listed girls was child of an attorney
- He sued for defamation
- Parents motion to dismiss denied because page still up
- Settled for \$15k each (plus letter of apology)

Uniform Civil Remedies for Unauthorized Disclosure of Intimate Images Act (Neb. Rev. Stat. §§ 25-3501 to 25-3508.)

- New Nebraska law allows for civil lawsuits when a private intimate image is shared
- Allows for actual damages and emotional distress
- If the actual damages are difficult to quantify, presumed damages of up to \$10,000 against each defendant.
- Allows for
 - attorney's fees
 - costs
 - injunctive relief

Criminal Consequences: Terroristic Threats

- NEB. REV. STAT. 28-311.01:
- Terroristic Threats: "threatens to commit any crime of violence ..."
 - With the intent to terrorize another
 - In reckless disregard of the risk of causing such terror
- Class IV Felony punishable by 5 years in prison and/or \$10,000 fine

Elkhorn teenager arrested for terroristic threats toward school, officials say

Neligh-Oakdale Student Arrested For 'Columbine' Threat

BY Antelope County News | 12/20/2016

Student arrested after threats made against Wahoo High School

Omaha police have investigated dozens of threats against schools, students since Florida shooting

SarpyCountySheriff @SarpySheriff Follow

Social media postings have recently surfaced with content "joking" about shooting schools and other places. These posts were followed up on and determined not to be a credible threat. Parents talk with your children about social media comments. #NoJoke #WeWillTakeItSeriously

Plattsmouth students accused of planning school attack appear in court; county attorney describes 'very troubling' plan

Student banned from Nebraska City Public Schools property after making threat

Sexting

Denise

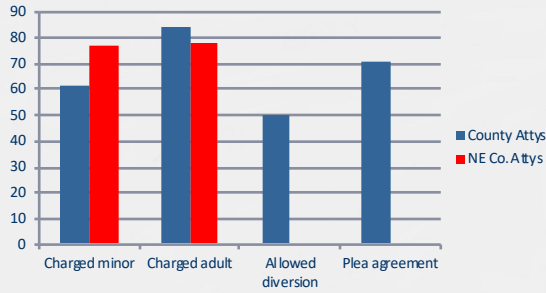
Marcus send me a pic of you in bra 😊

Denise ok

Snapchat and Sexting

- NEB. REV. STAT. 28-813 *et seq.*
- Makes sexting (images) a class IV felony for offenders **under 19**
- Class IIIA felony for **19 and up**
- Both punishable by:
 - Up to 5 years in prison and/or
 - \$10,000 fine
 - Require sex offender registration

Nebraska's Sexting Laws: The Harsh Reality



Nudes of Minors are Illegal for ANYONE to Create or Distribute

- NEB. REV. STAT. 28-1463.01-.06 (Creation)
 - (1) It shall be unlawful for a person to knowingly **make, publish, direct, create**, provide, or in any manner generate any visual depiction of sexually explicit conduct which has a child other than the defendant as one of its participants or portrayed observers.
 - (2) It shall be unlawful for a person knowingly to purchase, rent, sell, deliver, **distribute**, display for sale, advertise, trade, or provide to any person any visual depiction of sexually explicit conduct which has a child other than the defendant as one of its participants or portrayed observers.
- (No affirmative defenses...)

Lincoln, NE Case

- 2 18-year-olds filmed acts with 17-year-old without permission
- Shared on Snapchat and other SM
- Tried as adults
- Sentenced
 - 60 days in prison
 - No social media
- Judge: "You imposed a life sentence on her" because it will never go away

Nudes of Minors are Illegal for ANYONE to Possess

- NEB. REV. STAT. 28-813.01 (Obscenity)
 - It shall be unlawful for a person **under nineteen years of age** to **knowingly and intentionally possess any visual depiction** of sexually explicit conduct which has a child other than the defendant as one of its participants or portrayed observers. Violation of this subsection is a **Class I misdemeanor**. A second or subsequent conviction under this subsection is a **Class IV felony**.
- 2 possible defenses for **voluntary sharing**— 15 to 18, or within 4 years in age if 17 or younger

It is Illegal to Share Nudes of ANYONE without their Consent

- NEB. REV. STAT. 28-311.08 (Intrusion)
 - (4) It shall be unlawful for any person to **knowingly and intentionally distribute or otherwise make public an image or video of another person's intimate area** or of another person engaged in sexually explicit conduct (a) if the other person had a reasonable expectation that the image would remain private, (b) knowing the other person did not consent to distributing or making public the image or video, and (c) if distributing or making public the image or video serves no legitimate purpose. Violation of this subsection is a Class I misdemeanor. A second or subsequent violation of this subsection is a Class IV felony.
 - "Intimate area" means "the naked or undergarment-clad genitalia, pubic area, buttocks, or female breast of an individual"

It is illegal to THREATEN to share a Nude (of anyone)

- NEB. REV. STAT. 28-311.08 (Intrusion)
 - (5) It shall be unlawful for any person **to threaten to distribute** or otherwise make public an image or video of another person's intimate area or of another person engaged in sexually explicit conduct with the intent to intimidate, threaten, or harass any person. Violation of this subsection is a Class I misdemeanor.
- (No affirmative defenses...)

It is Illegal to ask a Minor to take or send a Nudes

- 28-707 (Child Abuse)
 - A person commits child abuse if he or she knowingly, intentionally, or negligently causes or permits a minor child to be...
 - “Placed in a situation to be sexually exploited by allowing [or] encouraging such minor child to ... engage in ... pornographic photography, films, or depictions”
- 28-711: “any school employee” **must report child abuse**

Sexting Among Middle and High School Students:



59%

knowledge of legal consequences “would have” deterred them from sexting.

According to 2014 Northeastern University Youth Sexting Study

The Most Recent Teenagers Caught Sexting in Nebraska

Sexting and Sextortion

- In 4 years the FBI's sextortion caseload has increased 472%
- "Operation Strikeback"
 - Started with complaint from 17 year old male
 - 190-195 individuals working with 3 separate organized crime groups
 - 58 arrests
 - More than 100 victims
 - Blackmail demands ranged from \$500 to \$3,000

It Doesn't Happen Here!

Aurora man charged with 5 counts of child porn production

The Associated Press May 18, 2017



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BROKEN BOW — A 41-year-old Aurora man has been accused of child porn manufacture in Custer County.

Court records say Ross Carstensen is charged with five counts of visual depiction of sexually explicit conduct. Carstensen's attorney, Clarence Mock III, said Thursday that Carstensen will plead not guilty because he was engaged in "legal, consensual adult activity."

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Earlier this month, a Hamilton County sexual assault charge against Carstensen was dismissed. The records say that information from that case led investigators to the girl involved in the porn case.



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It Doesn't Happen Here!

FOR IMMEDIATE RELEASE

Wednesday, September 14, 2016

Nebraska Man Sentenced to 35 Years In Prison for Being Part of a Child Exploitation Enterprise

A Fairbury, Nebraska man was sentenced today to 35 years' in federal prison for his participation in a child exploitation enterprise, United States Attorney Barbara L. McQuade announced.

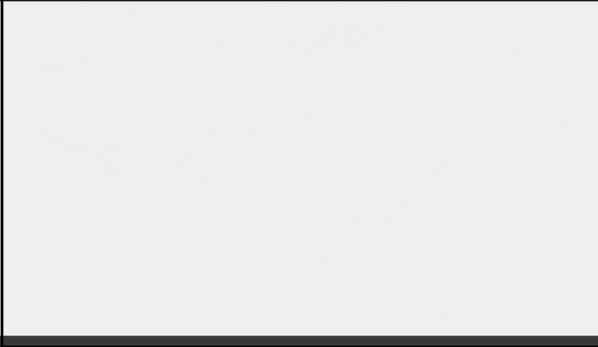
McQuade was joined in the announcement by Special Agent in Charge David P. Gellon, Federal Bureau of Investigation, Detroit Division.

Sentenced was Brandon L. Hennerberg, age 31. Hennerberg was sentenced by U.S. District Court Judge Richard G. Kopf in Lincoln, Nebraska. He was originally charged, along with five co-defendants, in the Eastern District of Michigan in a 18-count indictment with the crimes of child exploitation enterprise, numerous counts of conspiracy to produce child pornography, conspiracy to receive and access with intent to view child pornography, and aiding and abetting online enticement. Hennerberg pleaded guilty to one count of child exploitation enterprise, carrying a 20-year mandatory minimum sentence, on June 21, 2016.

The investigation determined that from at least January of 2014 to February of 2016, Hennerberg was a member of a group of individuals that worked together online to entice minor females to produce child pornography. The group members created fraudulent social media accounts posing as teenagers. Using the assumed identities, group members searched social media websites and engaged minor females, specifically targeting 10 to 14 year-old girls, in conversation using internet chat and video applications. The group members worked together for hours and sometimes even days to deceive their victims and convince them to undress and engage in sexually explicit activity live on webcams, which the group members recorded.

The group members used an elaborate scheme to entice, coerce, and deceive their victims. Each group member had at least one role. Although at times a group member would play more than one role at a time,

The Most Recent Teenagers Caught Sexting in Nebraska



Lincoln man arrested, charged with child enticement



Colorado Man arrested for child enticement of Lincoln teen



Lincoln man arrested after child enticement investigation by NSP



Man arrested for child enticement in Lincoln



CNN World Africa Americas Asia Australia China Europe India Middle East United Kingdom

Instagram is leading social media platform for child grooming

By Rob Richeta, CNN
Updated 6:05 AM ET, Fri March 1, 2019



More from CNN

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(CNN) — More children are being groomed on Instagram than on other social media platforms, new figures suggest, leading to calls for tech companies to face stronger child welfare regulations.

CNN **KNU**

Taking Back Control

- Educate yourself
 - www.safesmartsocial.com
 - www.commonssense.org
 - www.cyberbullying.org
- Limits on electronics
 - Phone/iPad Curfew
 - No charging in bedrooms
 - "creeping"
 - Consequences for electronic rule breaking

Questions?


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