

## **KEN WARNER STATEMENT**

*Vigo County School Corp. board member Ken Warner sent the following statement to the Tribune-Star on Friday afternoon. It is presented here in its entirety.*

Last week when I attempted to defend a local church congregation who were being viciously attacked by individuals wanting to place blame on the church and its members, instead of just their minister who was recently arrested for possession of possession of child pornography claiming that children had been molested in the church building and in the parsonage. I stated that was not what he had been charged with, he was charged with possession of child pornography, when asked "what is the difference? I said one isn't as bad as the other, in hindsight I could have said one is worse than the other but it still says the same thing.

Both the Indiana Code and US Code agree with what I said as illustrated by the different felony levels and terms/levels of punishment.

### **Indiana Code**

Under Indiana law, child molesting involves direct, physical sexual contact or abuse with a minor, whereas possession of child pornography (or child sexual abuse material) involves knowingly holding, viewing, or storing digital or physical sexually explicit representations of a minor without requiring direct physical contact with a child.

### **Core Differences**

- Nature of the Act:
  - Child Molesting: Governed primarily by Indiana Code § 35-42-4-3, it requires a person to perform or submit to sexual contact or sexual intercourse with a child under a certain age (typically under 14 or under 16 depending on the specific statutory subsection and age gaps).
  - Possession of Child Pornography: Governed by Indiana Code § 35-42-4-4 (as part of child exploitation statutes), it targets the knowing or intentional

possession, viewing, or access of pictures, videos, or digital representations depicting sexual conduct by someone under 18 (or appearing to be under 18).

- **Physical Contact vs. Digital Material:**

- Child molesting is a hands-on offense involving direct contact or interaction with a living victim.

- Possession of child pornography focuses strictly on contraband media files (photos, videos, or computer files) and does not require proof that the defendant personally participated in the abuse or touched the child depicted.

- **Felony Classification and Penalties:**

- **Child Molesting:** Classified as a severe felony, ranging from a Level 4 or Level 2 felony for fondling up to a Level 1 or Level 3 felony (or higher depending on age and circumstances), carrying sentences ranging from several years to decades or life.

- **Possession of Child Pornography:** Generally classified as a Level 6 felony (which can upgrade to a Level 5 felony under certain aggravating circumstances), carrying baseline prison sentences ranging from 6 months to 2.5 or 6 years.

## **US Code**

Under United States federal law, child molestation (sexual abuse) and the possession of child sexual abuse material (CSAM, legally termed child pornography) are legally distinct offenses under Title 18 of the U.S. Code, though they are closely connected in the legal and criminal justice systems.

## **Core Legal Definitions**

- **Child Molestation / Sexual Abuse (18 U.S.C. § 2241–2244, § 2251):** Involves direct, physical sexual contact, exploitation, or performance of a sexual act with a minor, or using a child to produce sexually explicit material. This is a direct physical or interactive crime against a specific victim.

- Possession of Child Photography / CSAM (18 U.S.C. § 2252, § 2252A): Involves knowingly possessing, viewing, or storing digital or physical visual depictions of minors engaged in sexually explicit conduct.

### **Key Differences**

- Nature of the Act: Molestation requires direct physical contact or active abuse of a child. Possession requires control or custody of existing images, videos, or digital files depicting abuse, without requiring proof that the possessor participated in the physical creation or abuse of that specific child.
- Statutes & Sentencing: They fall under different sections of the U.S. Code. While both carry severe federal felony penalties, production and active sexual exploitation carry higher baseline sentences (often 15 to 30+ years), whereas simple possession under § 2252A(b)(2) carries a baseline of up to 10 to 20 years depending on factors like the age of the depicted victim.
- Evidentiary Connection: Federal courts recognize that child pornography acts as a permanent record and tool for child molestation. Under rules like Federal Rule of Evidence 414, child pornography offenses are legally grouped under the broader umbrella definition of "child molestation" for specific evidentiary and trial admissibility purposes.

### **Further Exploration**

- Read the Cornell Legal Information Institute 18 U.S.C. § 2251 to review statutory notes on sexual exploitation.
- Examine the Cornell Legal Information Institute 18 U.S.C. § 2252A for details on possession penalties.

Both the US Code and Indiana Criminal Code support that there are differences in the Felony Levels and Punishments for Possessing Child Pornography Materials versus Molesting or Abusing a Child. That in no way is minimizing the Possessing Materials charges.

Two anti-building program people egged on others by using a small portion of the thread, then blacking out significant parts of my comments. Those include “I

never liked the guy”, There is nothing worse than hurting a child” among other things. By doing that they were able to create a false narrative which did not reflect the conversation at all. My only goal was to support a devastated church congregation that was being unfairly targeted with outlandish and false accusations.