THE CHOICE

Made for students, by students

IT'S YOUR LIFE. IT'S YOUR REPUTATION. IT'S YOUR FUTURE.

how will you handle

THE CHOICE

tyla.org/resource/the-choice

drugs + alcohol | sexting | guns in school | online strangers | cyber bullying | social media

Texas Young Lawyers Association
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44116 4/20

THE CHOICE

DISCUSSION GUIDES

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TEXAS YOUNG LAWYERS ASSOCIATION

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INTRODUCTION

Through this program, TYLA set out to build on the foundational Junior Judges project from 2001 and better target current issues faced by secondary students. Due to the new topics the project is covering and the fact that the project's target age is older, Junior Judges 2.0 has been rebranded as "The Choice."

Since the original project's release 19 years ago, youth are faced with a host of new, tougher issues and challenges, such as social media, cyberbullying, and internet safety. The Choice is designed to help teens make the right choice(s) in tough situations they will likely encounter in their adolescent years. It is also designed to inform teenagers of potential consequences, which they and their families may face if they make the wrong decision.

When discussing these topics, please remember to focus on the following:

- Empowering teenagers to be confident enough to make the right choices in the face of peer pressure;
- Helping teenagers become aware of how their actions may affect others; and
- Reinforcing how making the right choice will ultimately have a positive impact on their self-esteem, their family, and society as a whole.

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1.

Cyberbullying

Please watch the corresponding video for discussion available at:

tyla.org/resource/the-choice

DISCUSSION GUIDE

1. What would you do in the situation depicted in the video?

2. What comes to mind when you hear the work "cyberbullying"? Please provide some examples of cyberbullying.

   - Legal Definitions

     - Texas Education Code §37.0832(a)(1)

       Bullying means a "single significant act or a pattern of acts by one or more students directed at another student that exploits an imbalance of power and involves engaging in written or verbal expression, expression through electronic means, or physical conduct that:

       - Has the effect or will have the effect of physically harming a student, damaging a student's property, or placing a student in reasonable fear of harm to the student's person or of damage to the student's property;
       - Is sufficiently severe, persistent, or pervasive enough that the action or threat creates an intimidating, threatening, or abusive educational environment for a student;
       - Materially and substantially disrupts the educational process or the orderly operation of a classroom; or
       - Infringes on the rights of a victim at a school.
       - Bullying includes cyberbullying.

     - Texas Education Code §37.0832(a)(2).

       Cyberbullying is "bullying that is done through the use of any electronic communication device, including through the use of a cellular or other type of telephone, a computer, a camera, electronic mail, instant messaging, text, a social media application, an Internet website, or any other internet-based communication tool."

3. How much of a problem do you think cyberbullying is?

4. Do you think there should be a punishment for cyberbullying?

- Legal consequences of cyberbullying

  - Texas Education Code §37.0832(a)(2)(a-1).
    David's Law[1.] - The Texas Legislature enacted David's Law to specifically address cyberbullying and to criminalize the actions of individuals that engage in such activities. David's Law focuses on combating and preventing bullying, including cyberbullying.

  - The bullying provisions in the Texas Education Code apply to:
    - Bullying that occurs on or is delivered to school property or to the site of a school-sponsored or school-related activity on or off school property;
    - Bullying that occurs on publicly or privately-owned school bus or vehicle being used for the transportation of students to or from school or school-sponsored or school-related activity; and
    - Cyberbullying that occurs on or off school property or outside of a school-sponsored or school-related activity if the cyberbullying:
      - Interferes with a student's educational opportunities; or
      - Substantially disrupts the orderly operation of a classroom, school, or school-sponsored or school-related activity.

  - Texas Penal Code Section 42.07(c)
    - For juveniles, Class A and B misdemeanor offenses are generally punishable by a term of court-ordered probation either in their home or in an out-of-home placement up to age 18. Non-determinate felony offenses (including state jail felonies) can be punished the same as misdemeanors or by commitment, up to age 19, to the Texas Juvenile Justice Department, which is the detention system for kids in Texas.
    - For adults, Cyberbullying is considered a Class A misdemeanor if the offense was committed against a child less than 18 with the intent that the child commit suicide or engage in conduct causing serious bodily injury to the child or the individual committing the cyberbullying previously violated a temporary restraining order or temporary injunction.

[1.] David was a student in San Antonio who took his own life after being the victim of cyberbullying.

5. What should a student do if they are being cyberbullied?

- If you are being cyberbullied, here are some tips for dealing with the situation:

  - Tell someone - As with any type of bullying it so important that you don't suffer in silence and you tell someone about it straight away. It may seem hard do but make sure you tell a trusted adult, such as a parent or teacher, and they will help you to decide what to do.

  - Report the person/group - Cyberbullying is never acceptable and you should report the content (pictures, texts, etc.) to someone you trust and to the social media site. All social networks have "report abuse" buttons, as do most mobile phone networks who have teams to deal with abuse. Games consoles also have advice on their websites. Reporting is usually anonymous so the person will not know that you have reported the content.

  - Block the person/group - Most social media sites will give you the option to block and report the person/group cyberbullying you. When you block someone it usually means that the person/group will no longer be able to contact you or see any of your content. Check out the links below to read about how you can block the person/group on different social media sites.

  - Save the evidence - It is really important that you save or copy any of the cyberbullying, such as texts or conversations you receive so you have evidence of the cyberbullying and can show it to the relevant people. Taking and saving screen shots can be a good way to do this.

  - Don't reply or answer back - It may be very tempting to reply to the person/group, but don't become a cyberbully yourself. Deal with the bully by blocking and reporting the abuse. It is sometimes hard not to write back, but it is always best not to retaliate. Sometimes the people bullying you are looking to get a reaction out of you and answering back can just make it worse.

  - Stay positive - Although it may feel like you do not have control of the situation, try to remain positive and hopeful. Make sure you do the steps above and talk to people inside and outside of school that you can trust. These people care for you and will work with you to stop the cyberbullying. Stay positive, you are not alone, and things will get better.

6. What should a student do if they learn that a friend is being cyberbullied?

   - Thank them for coming to talk to you and being brave to speak out about the bullying.
   - Tell an adult!
   - Ask them to show you the online content and follow steps in the section above if they have not done this already.
   - Cyberbullying can make a person feel ashamed and out of control of the situation. Ask your friend what the next steps are that they want to take. It is important that they have a say in this process, as they may not want you to talk straight away to the bully.
   - Make sure you follow the school's anti-bullying procedures and keep notes of what has happened.

7. What should a student do if they are the ones who have cyberbullied someone?

   - Stop the behavior immediately.
   - Tell an adult!
   - Ask for additional help.

2.

Drugs & Alcohol

Please watch the corresponding video for discussion available at:

tyla.org/resource/the-choice

DISCUSSION GUIDE

1. What would you do in the situation depicted in the video?

2. Have you ever been in situations where there were opportunities for drug or alcohol use? Did you feel pressured in those situations?

   Let students share a few stories. Then guide them to think about peer (or other) pressure. Would they judge someone who says "no" to alcohol and drugs negatively? They will likely say they respect others' choices, yet they still fear being judged themselves. This dichotomy is a great place to focus the conversation. Ask: "What are your options if you feel pressured?" For example, students can practice what they are going to say so that they feel more comfortable. Suggest they avoid the "pressure zone" or situations that might be uncomfortable. Use the buddy system. Perhaps they can find a friend who shares their values, and they can back each other up.

3. What are the legal consequences of throwing or having a party with drugs or alcohol present?

   - **Consequences for the host parents and children**

     - For juveniles, Class A and B misdemeanor offenses are generally punishable by a term of court-ordered probation either in their home or in an out-of-home placement up to age 18. Non-determinate felony offenses (including state jail felonies) can be punished the same as misdemeanors or by commitment, up to age 19, to the Texas Juvenile Justice Department, which is the detention system for kids in Texas.

     - Adults and minors who give alcohol to a minor could face stiff penalties.
       - The punishment for making alcoholic beverages available to a minor is a Class A misdemeanor, punishable by a fine up to $4,000, confinement in jail for up to a year, or both.
       - Additionally, the violator will have his or her driver's license automatically suspended for 180 days upon conviction.

     - Persons 21 or older (other than that child's parent or guardian) can be sued and held liable for damages caused by intoxication of a minor under 18 if the adult knowingly provided alcoholic beverages to a minor or knowingly allowed the minor to be served or provided alcoholic beverages on the premises owned or leased by the adult.

- **Consequences for the attendees of party (whether they are using alcohol/drugs or not)**

  - For juveniles, Class A and B misdemeanor offenses are generally punishable by a term of court-ordered probation either in their home or in an out-of-home placement up to age 18. Non-determinate felony offenses (including state jail felonies) can be punished the same as misdemeanors or by commitment, up to age 19, to the Texas Juvenile Justice Department, which is the detention system for kids in Texas.

  - Minors who purchase, attempt to purchase, possess, or consume alcoholic beverages, as well as minors who are intoxicated in public or misrepresent their age to obtain alcoholic beverages, face the following consequences:
    - Class C misdemeanor, punishable by a fine up to $500
    - Alcohol awareness class
    - 8 to 40 hours community service
    - 30 to 180 days loss or denial of driver's license

  - If a minor is seventeen years of age or older and the violation is the third offense, the offense is punishable by a fine of $250 to $2,000, confinement in jail for up to 180 days or both, as well as automatic driver's license suspension.

  - A minor with previous alcohol-related convictions will have his or her driver's license suspended for one year if the minor does not attend alcohol awareness training that has been required by the judge.

- **Consequences for suppliers of drugs/alcohol**

  - For juveniles, Class A and B misdemeanor offenses are generally punishable by a term of court-ordered probation either in their home or in an out-of-home placement up to age 18. Non-determinate felony offenses (including state jail felonies) can be punished the same as misdemeanors or by commitment, up to age 19, to the Texas Juvenile Justice Department, which is the detention system for kids in Texas.

  - For adults, sale to a minor is a class A misdemeanor, punishable by a fine up to $4,000, confinement up to a year in jail, or both.

4. What are the legal consequences for driving under the influence or driving while intoxicated?

   - For juveniles, Class A and B misdemeanor offenses are generally punishable by a term of court-ordered probation either in their home or in an out-of-home placement up to age 18. Non-determinate felony offenses (including state jail felonies) can be punished the same as misdemeanors or by commitment, up to age 19, to the Texas Juvenile Justice Department, which is the detention system for kids in Texas.

   - In Texas, both a DUI and a DWI refer to an individual operating a vehicle in a public place while intoxicated, which means he or she lacks the normal use of mental or physical faculties because of the use of alcohol or a drug. "DWI," which stands for "Driving while Intoxicated," is the legal definition of this crime in Texas; although, "DUI," which stands for "Driving Under the Influence," is commonly used interchangeably.

   - A person 21 years of age or older can be charged with a DWI if he or she operates a vehicle while legally intoxicated (has a .08 blood or breath alcohol concentration or is impaired by drugs).

   - However, under Texas law, if a person under the age of 21 is pulled over and has any alcohol in his system, then he or she can be charged with a "DUI" (or "DUIA," which stands for "Driving Under the Influence of Alcohol"). This is the only officially legal use of the term "DUI" in Texas.

     - It is irrelevant whether the minor is impaired by the alcohol in his system. In Texas, if a driver is under 21, it is illegal to drive with any detectable amount of alcohol in his system. This is due to Texas's zero-tolerance policy.

     - A person under the age of 21 can still be charged with a DWI if he or she has a blood or breath alcohol concentration (BAC) of .08 or greater or was driving while under the influence of drugs.

     - On September 1, 2009, this law was expanded to include watercraft in addition to motor vehicles.

- The consequences for the minor on the first offense of driving under the influence of alcohol:
  - Class C misdemeanor, punishable by a fine up to $500
  - Attendance at an alcohol awareness class
  - 20 to 40 hours of mandatory community service
  - 60 days driver's license suspension. The minor would not be eligible for an occupational license for the first 30 days.

- A second offense increases the consequences to:
  - Class C misdemeanor, punishable by a fine up to $500
  - Attendance at an alcohol awareness class at the judge's discretion
  - 40 to 60 hours of mandatory community service
  - 120 days driver's license suspension. The minor would not be eligible for an occupational license for the first 90 days.

- A third offense is not eligible for deferred adjudication.
  - The minor's driver's license is suspended for 180 days and an occupational license may not be obtained for the entire suspension period.
  - If the minor is 17 years of age or older, the fine increases to $500 to $2,000, confinement in jail for up to 180 days, or both.

5. What if you are drinking and need to get help?

   - Underage Drinking Good Samaritan Law – Texas Alcoholic Beverage Code, §106.04(e), §106.05(e)

   - A minor does not commit an offense of consuming/possessing alcohol if certain conditions are met regarding seeking medical assistance.

6. Did you know there is an increased risk of sexual assault with the consumption of alcohol?

   - Research studies have found that about half of sexual assaults on college campuses involve a situation in which the perpetrator, the victim, or both were consuming alcohol.

   - Sexual assaults were more likely to occur in settings where alcohol was consumed (e.g., parties, bars).

   - Potential perpetrators seek out such settings as a way of finding vulnerable individuals.

7. Name two things you would like to accomplish by the time you graduate high school. How could drugs and alcohol use get in the way of those goals?

   For this question, ask five or so students to share goals, and then have the rest of the class list ways drugs and alcohol could interfere. If the goal is, for example, playing college football, marijuana use could affect physical and mental performance on the field, lower your grades, or even get you thrown off the team. Encourage your students to see that the temporary fun of drinking and drugs can come with dangerous risks and unwanted consequences both short- and long-term.

   - Physiological effects on the body of drugs, including marijuana, and alcohol:
     - These physiological effects are both short and long term.
     - Teenagers are at greater risk for binge drinking and addiction because the parts of the brain responsible for decision making and risk analysis are not as developed.
     - Substance abuse is detrimental to the brain:
       - The teenage years are vital to healthy cognitive function as an adult, so it is important to maintain a strict level of healthy behavior during these years. Drug abuse can impact the brain's ability to function in the short-term as well as prevent proper growth and development for later in life.
       - Substance abuse affects teen brain development by:
         - Interfering with neurotransmitters and damaging connections within the brain
         - Reducing the ability to experience pleasure
         - Creating problems with memory
         - Causing missed opportunities during a period of heightened learning potential
         - Ingraining expectations of unhealthy habits into brain circuitry
         - Inhibiting development of perceptual abilities
       - Research shows that people who use drugs or alcohol regularly as teens are 68% more likely to become addicted than those who hold off use until age 21, after which the chances of addiction drop to 2%.

- In addition to addiction risks, alcohol poses a serious risk to the physical health and growth of teens. Studies have shown that excessive drinking in teens can result in:
  - Delayed puberty and/or negative effects on the reproductive system
  - Lower bone mineral density
  - Higher levels of liver enzymes that indicate liver damage
  - Shorter limbs and reduced growth potential
  - Possible death
  - Impaired functioning

- Marijuana use is illegal under Texas law, and despite popular opinion, it can have similar physiological effects as other drugs and alcohol.

8. What can teens do to have a good time and to feel a rush of excitement other than doing drugs or drinking? What else can you do on a Saturday night to have fun?

3.

Guns in School

Please watch the corresponding video for discussion available at:

tyla.org/resource/the-choice

DISCUSSION GUIDE

1. What would you do in situation depicted in the video? What should the girl do about the gun in her possession?

2. What are the legal consequences of possessing a firearm, giving someone else a firearm, or bringing a firearm to school?

    - For juveniles, Class A and B misdemeanor offenses are generally punishable by a term of court-ordered probation either in their home or in an out-of-home placement up to age 18. Non-determinate felony offenses (including state jail felonies) can be punished the same as misdemeanors or by commitment, up to age 19, to the Texas Juvenile Justice Department, which is the detention system for kids in Texas.

    - Under Texas Penal Code 46.03(a)(1), it is a **felony** to intentionally, knowingly, or recklessly possess a firearm on school grounds.

        - A Felony is punishable by 180 days to two years in state jail and a fine of up to $10,000.

    - It is unlawful to transfer a firearm to someone prohibited from having one under federal law.

        - Federal law prohibits transferring handguns to people under age 21.

    - You can also be held civilly responsible for providing a weapon to someone who uses it to cause harm. In other words, persons who are injured can bring a lawsuit against you and your parents for playing a part in causing the harm.

3. What should the students do with knowing a classmate is down and he has lost interest in friends?

    - Teen Depression

        - The teenage years can be really tough, and it's perfectly normal to feel sad or irritable every now and then. But if these feelings don't go away or become so intense that you feel overwhelmingly hopeless and helpless, it may be depression.

- Teen depression is much more than feeling temporarily sad or down in the dumps. It's a serious and debilitating mood disorder that can change the way you think, feel, and function in your daily life, causing problems at home, school, and in your social life.

- How can you help?

  - Be informed. Not totally sure what depression is or what it means for your friend? A really great first step in helping your friend is to find out more about depression - which will help you better understand what they're going through.

  - Be there to listen. If your friend feels like talking, ask them how they're doing. Try asking questions like, "What can I do to help?" and "What do you find helpful?" When you want to bring up a sensitive issue with a friend, try to choose a time and place when you're both comfortable and relaxed. It's a good idea to avoid talking to them about it if they're upset.

  - Take their feelings seriously. If someone is suffering from symptoms of depression, it isn't possible for them just to 'snap out of it', 'cheer up' or 'forget about it'. When you listen to them and validate their feelings by saying things like 'That must be really hard' or 'I'm here when you want to talk', they'll know you're taking their feelings seriously.

  - Let them know about support services. If your friend has already seen a general practitioner or mental health professional, that's awesome. You could let them know there are also online and email counselling services.

  - Respond to emergencies. If you think your friend may be in danger or at risk of hurting themselves or someone else, seek help immediately.

  - Take care of yourself. It can be incredibly frustrating, exhausting and upsetting to deal with someone who is experiencing depression. You can be there to support your friend only if you look after yourself first. Remember to make sure your own wellbeing is looked after. Set boundaries and ask for support.

4. When does depression turn into a risk of suicide? What are the warning signs? What do you do?

   - Warning Signs of Suicide

     - Talking about suicide or death in general
     - Talking about "going away"
     - Referring to things they "won't be needing," and giving away possessions
     - Talking about feeling hopeless or feeling guilty
     - Pulling away from friends or family and losing the desire to go out
     - Having no desire to take part in favorite things or activities
     - Having trouble concentrating or thinking clearly
     - Experiencing changes in eating or sleeping habits
     - Engaging in self-destructive behavior (drinking alcohol, taking drugs, or cutting, for example)

   - Addressing Teen Suicide

     - Even if you have been sworn to secrecy, you need to get help, such as communicating your concerns to a teacher or school counselor. If necessary, you can also call a suicide crisis line (such as **1-800-SUICIDE**) or your local emergency number (**911**).

5. What if **you** are dealing with suicidal thoughts?

   - If your negative feelings caused by depression become so overwhelming that you can't see any solution besides harming yourself or others, you need to get help right away.

   - Asking for help when you're in the midst of such strong emotions can be really difficult, but it's vital you reach out to someone you trust—a friend, family member, or teacher, for example.

   - If you don't feel that you have anyone to talk to, or think that talking to a stranger might be easier, call the suicide helpline: **1-800-273-8255**. You'll be able to speak in confidence to someone who understands what you're going through and can help you deal with your feelings.

- Whatever your situation, it takes real courage to face death and step back from the brink. You can use that courage to help you keep going and overcome depression.

  - There is ALWAYS another solution, even if you can't see it right now.

  - Having thoughts of hurting yourself or others does not make you a bad person. Depression can make you think and feel things that are out of character. No one should judge you or condemn you for these feelings if you are brave enough to talk about them.

  - If your feelings are uncontrollable, tell yourself to wait 24 hours before you take any action. During this 24-hour period, try to talk to someone—anyone—as long as they are not another suicidal or depressed person. Call a hotline or talk to a friend. What do you have to lose?

  - If you're afraid you can't control yourself, make sure you are never alone. Even if you can't verbalize your feelings, just stay in public places, hang out with friends or family members, or go to a movie—anything to keep from being by yourself and in danger.

4.

Online Strangers & Predators

Please watch the corresponding video for discussion available at:

tyla.org/resource/the-choice

DISCUSSION GUIDE

1. What should Ashley do? Is it safe to meet someone she doesn't know?

2. Have ever heard the saying, "Don't talk to strangers."? "How might this 'rule' change when we communicate online?"

   While the Internet allows people to keep in touch or hang out with friends they already know offline, it also allows people who don't know each other to interact, debate, share, and collaborate. Explain that the Internet gives students a wide range of opportunities to connect with or learn from people who may not be in their circle of close friends– whether through games, social network sites, blogs, instant messaging, forums, and so on. And while this can be great, connecting with people online occasionally can carry risks. Therefore, it is important to know how to deal with inappropriate situations if they arise.

3. What should you do if someone you don't know contacts you online or tries to add you as a friend?

   - Best Answers:
     - Don't respond.
     - Ask the person to stop contact.
     - If they continue, block them and report their user information and don't respond anymore.
   - This should be the answer even if they say they know one of your friends or family members.
   - Online predators will often feel out a situation before asking for more information. If you shut it down early, they're likely to give up. Anything you share with them keeps the conversation going; it doesn't help end it. And though it may seem like harmless fun in the moment, there's a real person behind that other screen whose intentions are likely to be bad, so that's not a person you want to tease or make angry.

4. But what if they seem harmless and nice? Or what if they seem to know things about you?

   - It is super easy to find out things about people online. A quick google search can easily yield some pictures or profile information. "Knowing something about you" is an easy thing, so that's no reason to chat.

   - Some creepers ask for pictures and personal information right away, and others can seem nice at first. Either way, this is someone you don't know, so you don't have to worry about being polite.

5. In what online situations should you get a "gut feeling" that tells you that you may be at risk?

   When people you know only online flirt with you or talk about sex; when someone you don't know wants you to send them a picture, to meet you alone, or asks you to keep your conversation a secret; when someone asks for your Snapchat handle or your phone number so you can text each other.

   - When anyone starts asking for pictures or personal information, it's a red flag, and you should always say no.

   - If you say yes once, it just opens the door to asking for more pics and more info.

   - Once someone has your phone number, they can call you anytime and anywhere. It is also easier to get more information about you from your cell phone number.

6. What if they say they already have an embarrassing picture, and if you don't send more, they'll share that one with everyone?

   - If you know you haven't shared anything too embarrassing, you know that is an empty threat and should not work. It is another BIG reason to avoid posting and sharing such pictures, even with friends.

   - Even if they have a picture you didn't mean for them to have, if you send anything else, the demands would not end. One chance for embarrassment is better than sending more pictures. That would only make the problem worse.

- Also, there can be ways to involve law enforcement if this type of threatening or harassing behavior continues against you. There are various statutes in place to make this kind of behavior a crime. Tell someone trustworthy if it raises to this level.

7. What are safeguards you can take to be safe?

- Keep account settings as private as you can on your social media accounts.
- Don't reply to any questions that make you uncomfortable.
- Tell a friend or trusted adult when someone bothers you online.
- Avoid flirting or using sexual language online, especially with people you and your friends do not know in person
- NEVER plan a face-to-face meeting with someone you met online without taking along a parent or guardian.
- Don't talk to strangers online.
- Avoid sharing personal information about your feelings, difficult situations you may be experiencing, or various plans or locations online because online predators can use this information to find you when you're vulnerable and pretend to understand and be able to help you.
- Trust your gut. If anything feels creepy, it probably is. Tell someone about it.

5.

Sexting

Please watch the corresponding video for discussion available at:

tyla.org/resource/the-choice

DISCUSSION GUIDE

Developing at a rapid rate, smart device technology presents amazing opportunities as well as difficult challenges. One such challenge is the exchange of sensitive and explicit material. "Sexting" is the sending of nude or sexually suggestive images electronically, whether through text messaging, social media, chat boards, or email. Sexting has become especially common among teenagers—many of whom are minors—and can easily be used to bully or harass.

1. What would you do?

2. What are the legal consequences for "Sexting"?

   Texas is one of the states that has enacted legislation specifically addressing teen sexting. The law offers prosecutors a charging option that allows minors to avoid a felony record and sex offender registration. Keep in mind that statutes, which define crimes and their penalties, can change, so checking them is always a good idea. How courts interpret and apply the law can also change. For juveniles, Class A and B misdemeanor offenses are generally punishable by a term of court-ordered probation either in their home or in an out-of-home placement up to age 18. Non-determinate felony offenses (including state jail felonies) can be punished the same as misdemeanors or by commitment, up to age 19, to the Texas Juvenile Justice Department, which is the detention system for kids in Texas.

   Texas law also requires that certain programs be offered in schools on the dangers of sexting. Tex. Educ. Code § 37.218 (2019).

   - Texting between Minors in Texas

     - Tex. Penal Code § 43.261 (2019);

     - Crimes. Texas punishes sexting between minors under its law against electronically transmitting sexual depictions of children. Under this law, it's illegal for one minor to electronically send to another minor an image (often a photo) of someone younger than 18 engaging in sexual conduct. It's also illegal for a minor to possess an electronic image of another minor engaging in sexual conduct.

- Defenses. The law provides a defense for a minor who receives an unsolicited sext if the minor destroys the image within a reasonable amount of time. Depending on the circumstances, minors in a dating or marital relationship who privately share their images (only with each other) might also have a defense from prosecution.

- Penalties. Penalties for sexting between minors range from a class C to a class A misdemeanor in Texas. A class C misdemeanor carries up to a $500 fine, while a class A misdemeanor can be punished by a year's jail time and a $4,000 fine. The severity of the penalty increases for repeat convictions or if harassment or bullying was involved. Additionally, the court might require the offender to complete an education program on the dangers of sexting.

• Sexting With Minors

- Tex. Penal Code §§ 12.32, 43.24-26 (2019); Tex. Crim. Proc. Code art. 62.001 (2019).

- In Texas, it's also possible for a person who sexts with a minor to be prosecuted for distributing sexual images to a minor, possessing or distributing child pornography, or promoting sexual performance by a minor. These crimes are usually punished as felonies and can carry severe penalties, including sex offender registration.

• Unwanted Sexting

- Tex. Penal Code § 21.19 (2019).

- Texas law also makes it illegal for anyone to send unwanted sexts, regardless of the age of the sender or recipient. The law includes sending images of people engaged in sexual conduct or with exposed intimate parts. The sext is unwanted according to the law if a recipient didn't request it or clearly give consent for it to be sent.

- This crime is a Class C misdemeanor and can be punished by a $500 fine.

- Invasive Visual Recording

  - Under Sec. 21.15 of the Texas Penal Code, a person commits the offense of invasive visual recording when he or she:

    - Photographs or videotapes, broadcasts or transmits (e.g. sharing on social media, sending a text message, sending an email) a visual image of someone's "intimate area," which includes the breasts, buttocks and groin.
    - Photographs, videotapes, broadcasts or transmits a visual image of someone in a changing room, including a locker room, dressing room, or a swimwear changing area, such as the kind you find at a gym, or a community or recreation center pool.
    - Knowing the character of a visual image of another person's intimate area, broadcasts, promotes, or transmits the image to someone else (e.g. forwards a text or shares on social media etc.).

  - Under Sec. 21.15 of the Texas Penal Code, the offense of invasive visual recording is a state jail felony, punishable by 6 months to 2 years in jail, and a fine up to $10,000.

- Revenge Porn

  - Essentially, revenge porn involves distributing sexually explicit videos or photos of a person without his or her consent. Whatever the motive, revenge porn has become so rampant and harmful that lawmakers in half of the 50 states, including Texas, have been compelled to pass revenge porn laws in recent years.

  - The Unlawful Disclosure or Promotion of Intimate Visual Material law (Texas Penal Code Section 21.16) makes it illegal to post, distribute or transfer private pornographic or explicit photos, videos, or images of another person's sexual activity without that person's consent.

  - In addition, this law holds that the person shown in the revenge porn must have had a reasonable expectation of privacy when the material was recorded. The law also maintains that identifying personal information about the subject must have been shared along with the images.

  - A person convicted of violating Texas' revenge porn law can be charged with a Class A misdemeanor. Penalties for such a crime include up to one year in jail and a fine of up to $4,000. The convicted person will also have a criminal record.

- Sexting and Federal Law

  - Depending on the circumstances, sexting can also be a crime under federal law. Prosecutors have several tools at their disposal even though there's no federal law specifically addressing sexting.
    - Among these tools is the Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today (PROTECT) Act of 2003. 18 U.S.C. §§ 1466A, 2252, 2252A (2019).

  - The Act makes it illegal to use a computer to send or receive:
    - any obscene visual depiction of a minor engaged in sexually explicit conduct
    - any image of a minor actually engaging in sexually explicit conduct, or
    - any material containing child pornography.

  - Federal law also makes it a crime for someone to cause a minor to take part in sexually explicit conduct in order to portray that conduct. Parents are included in those who can be prosecuted. 18 U.S.C. § 2251 (2019).

  - But federal prosecution of juveniles for sexting could be unlikely. The Federal Juvenile Delinquency Act (FJDA) generally provides that, where possible, juveniles should be prosecuted in state—not federal—courts. 18 U.S.C. § 5032 (2019).

3. What are some non-legal consequences that someone may face after sexting pictures of themselves?

   Sexting can be risky, dangerous, and illegal.

   - Possibility of pictures being shared among peers

   - Possibility of blackmail

   - Possibility of effecting future education/employment

4. What should a student do when they are asked to take a nude picture/video of themselves?

   - Stay calm.
   - Think about whether this request is one based on a respectful relationships and trust. Sexting is a sexual activity. All sexual acts – including sexting – need consent from a partner. Breaching consent by is not ok or respectful.
   - Don't do it!! You have the right to say 'no'.
     - It's never OK for someone to pressure you into doing anything sexual, including sending sexual photos of yourself.
     - A lot of harm can come from saying yes and sending such photos. Sexting is not a safe or good idea.
   - Practice saying no in different ways to diffuse the pressure. For example, use humor by saying 'Yes, why not?' and then send a picture of an animal or a stick person. Or just say, 'No, I don't send nudes.'

5. What should a student do if they have received a nude picture/video of someone else?

   - Do not forward the image to anyone else.
   - Delete the message.
   - Report the image if it is online, so it can be blocked or removed. If posted on a social media platform, you can report the image directly to the company. If noticed at school, tell a trusted teacher, counselor, or administrator. If noticed at home, tell your parents. You can also make a report to law enforcement.
   - Block the number that sent the image or video.
   - Make a report to your cellular company if the sexting continues.

6. What should a student do if they know someone is showing nude pictures/videos of someone else? Or if a nude picture/video of themselves is being shown to multiple people or being posted online?

    - Take a deep breath, and ask the person to delete your message. Watch them delete it if possible.
    - Talk to someone you trust, such as a friend, parent, counselor or teacher.
    - Make a report to your mobile phone company if you're receiving unwanted pictures or requests.
    - If an image gets shared online, take the following steps:
        - If you're under 18, report it immediately to the police.
        - Tell a teacher if the person who shared/posted it is from your school.
        - Un-tag yourself from the photo.
        - Report the image so it can be removed.
        - Report the person who posted it.
            - If posted on a social media platform, you can report the image directly to the company. If noticed at school, tell a trusted teacher, counselor, or administrator. If noticed at home, tell your parents. You can also make a report to law enforcement.
        - Talk to someone you trust like a friend, parent, counselor or teacher.

6.

Social Media

Please watch the corresponding video for discussion available at:

tyla.org/resource/the-choice

DISCUSSION GUIDE

A 2018 Pew study revealed that 95% of teens use a smartphone; 45% of teens are online almost constantly; and 70% of teens are now on Snapchat and/or Instagram. By the end of 2016, 2.8 billion people were using social media, and 83% of Americans had a social media account. By the end of 2016, 2.8 billion people were using social media, and 83% of Americans had a social media account, both of which are likely much higher now.

1. What would you do in the situation presented in the video?

2. What are some security risks that you can face when using social media? How do you protect yourself or mitigate these risks?

    - It is important to always be cognizant of security risks associated with social media, which include:

        - Information about your location – geotagging or "check-ins."

        - Personal information – work, birthdate, phone number, address, and email address.

        - Pictures you post – photos of you, your home, or your vehicle. Do not post that you will be out of town or post photos while you are away. This broadcasts that your home is empty and leaves your home susceptible to break-ins.

        - Links – avoid clicking on links in messages, tweets, posts, and online advertising. These may be links to viruses or other forms of malicious content.

        - Third-party apps – Polls, quizzes and games are often a fun part of some social networking websites, but by signing up to these, you may be giving the companies who create them permission to access your profile.

    - To protect yourself from security risks online:

        - Set all profiles to private.

        - Make yourself aware of what is visible to others on your social media accounts so that you are cognizant of what others can learn about you from your social media account.

- Be sure to use strong passwords and usernames that do not divulge personal information.

- Make sure that your username isn't self-identifying – don't use your birthdate, full name, etc.
  - Make sure that you have a password that is at least 8 characters with a variety of uppercase and lowercase letters, numbers, and symbols and use different passwords for different accounts.
  - It is important to not only create a strong password but to also keep your passwords secret.
  - Further, do not allow others to use your account.

- If there is reason to believe that your account has been compromised, report the problem and change the password.

- Be aware of and take advantage of the security features available on the different types of social media accounts.

3. In the video, the students were posting a video of them vaping, which is an illegal act for minors in Texas (Tex. Educ. Code § 38.006, Tex. Health & Safety Code § 161.087, and Tex. Health & Safety Code § 161.252). Can you face legal consequences if a social media post shows you performing illegal acts? What other negative consequences could you face form posting things on social media?

   - Anything and everything, posted through social media will become public – permanently. If you wouldn't say it, or show it to others, don't post it. Your social media posts can provide the basis for criminal or civil liability and used as evidence against you if you charged or sued.

   - Other possible negative consequences include:

     - School disciplinary consequences for social media posts

     - Effect on future education admission

     - Effect on current and future employment

4. What is a "digital footprint"? Why is it important to monitor yours?

   - A digital footprint is a trail of data you create while using the Internet. It includes the websites you visit, emails you send, and information you submit to online services.

     - A "passive digital footprint" is a data trail you unintentionally leave online. For example, when you visit a website, the web server may log your IP address, which identifies your Internet service provider and your approximate location. While your IP address may change and does not include any personal information, it is still considered part of your digital footprint. A more personal aspect of your passive digital footprint is your search history, which is saved by some search engines while you are logged in.

     - An "active digital footprint" includes data that you intentionally submit online. Sending an email contributes to your active digital footprint, since you expect the data be seen and/or saved by another person. The more email you send, the more your digital footprint grows. Since most people save their email online, the messages you send can easily remain online for several years or more.

   - Everyone who uses the Internet has a digital footprint, so it is not something to be worried about. However, it is wise to consider what trail of data you are leaving behind. Some tips for monitoring and controlling your digital footprint include the following:

     - Search yourself on Google, Yahoo, and other search engines and clean up anything that doesn't put you in a positive light. You can delete unwanted content at any time; you can remove tags from images or information that others have posted as well.

     - Utilize the settings on the various social media pages that allows the ability for others to search you. For example, Facebook has an option where makes it so a person can only friend you if you have a mutual friend in common.

     - Minimize the photos and other information about you that is available to the public. Make sure that you understand the privacy settings for the different forms of social media. It is important to set restrictions on who can view the content on your social media, not only for purposes of protecting your digital footprint, but for safety reasons as well. Your social media can reveal where you live, work, eat, sleep, and drink.

- Keep your pictures and posts appropriate.

- Control how you are tagged in posts and photos that other people post. Put restrictions in place, so that someone does not tag you in a post or post pictures of you without your permission.

- Always remember the three "W's"—who, what, and why. Who is your audience that your posts or photos will reach on your social media account? What is the message of your posts or photos? Why are you putting it on your social media account?

5. Can social media affect your mental health? What are some ways to protect your mental health?

   - Your friend's social media posts are not always indicative of that person's life. In other words, we only see a person's "best of" on social media accounts. A recent study by the American Academy of Pediatrics on the impact of social media on children, adolescents and families, cites that "Facebook depression" is one of the risk factors that teens may face with overexposure to social media.

     - Facebook depression is an affliction that results from establishing a presence on social networking sites, spending a great deal of time on these sites and then feeling unaccepted among peers online.

     - Although the study termed this affliction "Facebook depression," the more appropriate term would be "social media depression" as this can happen through any social media platform.
       - Studies show more time teens spend on social media, the lonelier and more anxious they are.
       - Correlation between smartphone usage and lower satisfaction with life
       - Peer relationships get worse the more social media is used.
       - Students who spend more time using smartphones and social media are less satisfied with life.
       - Suicide risk factors rise significantly after two or more hours a day online

   - The following are some ways to protect your mental health when using social media:

- Limit when and where you use social media
  - Using social media can interrupt and interfere with in-person communications. You'll connect better with people in your life if you have certain times each day when your social media notifications are off – or your phone is even in airplane mode.
  - Commit to not checking social media during meals with family and friends, and when playing with children or talking with a partner. Make sure social media doesn't interfere with work, distracting you from demanding projects and conversations with colleagues.
  - Many people find it very difficult to limit their own use. If you have trouble doing so, ask a parent for help or use various features and apps that will shut your devices off between certain hours.
  - In particular, don't keep your phone or computer in the bedroom – it disrupts your sleep.

- Have 'detox' periods
  - Schedule regular multi-day breaks from social media.
  - Using Facebook, Instagram and Snapchat just 10 minutes a day for three weeks resulted in lower loneliness and depression.
  - It may be difficult at first, but seek help from family and friends by publicly declaring you are on a break. And temporarily delete the apps for your favorite social media services from your phone.

- Pay attention to what you do and how you feel
  - Experiment with using your favorite online platforms at different times of day and for varying lengths of time, to see how you feel during and after each session.
  - Also note that people who use social media passively, just browsing and consuming others' posts, feel worse than people who participate actively, posting their own material and engaging with others online.
  - Whenever possible, focus your online interactions on people you also know offline.

- Approach social media mindfully; ask 'why?'
  - If you look at Twitter first thing in the morning, think about whether it's to get informed about breaking news you'll have to deal with – or if it's a mindless habit that serves as an escape from facing the day ahead. Do you notice that you get a craving to look at Instagram whenever you're confronted with a difficult task at work?

- Be brave and brutally honest with yourself. Each time you reach for your phone (or computer) to check social media, answer the hard question: Why am I doing this now? Decide whether that's what you want your life to be about.

- Prune
  - Over time, you have likely accumulated many online friends and contacts, as well as people and organizations you follow. Some content is still interesting to you, but much of it might be boring, annoying, infuriating or worse. Now is the time to unfollow, mute or hide contacts; the vast majority won't notice. And your life will be better for it.
  - Pruning some "friends" and adding a few motivational or funny sites is likely to decrease the negative effects of social media.

- Stop social media from replacing real life
  - Using Facebook to keep abreast of your cousin's life as a new mother is fine, as long as you don't neglect to visit as months pass by. Tweeting with a colleague can be engaging and fun, but make sure those interactions don't become a substitute for talking face to face.
  - When used thoughtfully and deliberately, social media can be a useful addition to your social life, but only a flesh-and-blood person sitting across from you can fulfill the basic human need for connection and belonging.