

SECOND REGULAR SESSION

[PERFECTED]

HOUSE BILL NO. 1558

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE NEELY.

5278H.01P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 573, RSMo, by adding thereto two new sections relating to the offense of nonconsensual dissemination of private sexual images, with a penalty provision.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 573, RSMo, is amended by adding thereto two new sections, to be known as sections 573.110 and 573.112, to read as follows:

573.110. 1. As used in this section and section 573.112, the following terms mean:

(1) "Computer", a device that accepts, processes, stores, retrieves, or outputs data and includes, but is not limited to, auxiliary storage and telecommunications devices connected to computers;

(2) "Computer program", a series of coded instructions or statements in a form acceptable to a computer that causes the computer to process data and supply the results of the data processing;

(3) "Data", a representation in any form of information, knowledge, facts, concepts, or instructions including, but not limited to, program documentation, that is prepared or has been prepared in a formalized manner and is stored or processed in or transmitted by a computer or in a system or network. Data is considered property and may be in any form including, but not limited to, printouts, magnetic or optical storage media, punch cards, data stored internally in the memory of the computer, or data stored externally that is accessible by the computer;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 (4) "Image", a photograph, film, videotape, digital recording, or other depiction
16 or portrayal of an object, including a human body;

17 (5) "Intimate parts", the fully unclothed, partially unclothed, or transparently
18 clothed genitals, pubic area, or anus or, if the person is female, a partially or fully exposed
19 nipple, including exposure through transparent clothing;

20 (6) "Private mobile radio services", private land mobile radio services and other
21 communications services characterized by the public service commission as private mobile
22 radio services;

23 (7) "Public mobile services", air-to-ground radio telephone services, cellular radio
24 telecommunications services, offshore radio, rural radio services, public land mobile
25 telephone services, and other common carrier radio communications services;

26 (8) "Sexual act", sexual penetration, masturbation, or sexual activity;

27 (9) "Sexual activity", any:

28 (a) Knowing touching or fondling by the victim or another person or animal, either
29 directly or through clothing, of the sex organs, anus, or breast of the victim or another
30 person or animal for the purpose of sexual gratification or arousal;

31 (b) Transfer or transmission of semen upon any part of the clothed or unclothed
32 body of the victim for the purpose of sexual gratification or arousal of the victim or
33 another;

34 (c) Act of urination within a sexual context;

35 (d) Bondage, fetter, sadism, or masochism; or

36 (e) Sadomasochism abuse in any sexual context.

37 2. A person commits the offense of nonconsensual dissemination of private sexual
38 images if he or she:

39 (1) Intentionally disseminates an image of another person:

40 (a) Who is at least eighteen years of age;

41 (b) Who is identifiable from the image itself or information displayed in connection
42 with the image; and

43 (c) Who is engaged in a sexual act or whose intimate parts are exposed, in whole
44 or in part;

45 (2) Obtains the image under circumstances in which a reasonable person would
46 know or understand that the image was to remain private; and

47 (3) Knows or should have known that the person in the image did not consent to
48 the dissemination.

49 3. The following activities are exempt from the provisions of this section:

50 (1) The intentional dissemination of an image of another identifiable person who
51 is engaged in a sexual act or whose intimate parts are exposed if the dissemination is made
52 for the purpose of a criminal investigation that is otherwise lawful;

53 (2) The intentional dissemination of an image of another identifiable person who
54 is engaged in a sexual act or whose intimate parts are exposed if the dissemination is for
55 the purpose of, or in connection with, the reporting of unlawful conduct;

56 (3) The intentional dissemination of an image of another identifiable person who
57 is engaged in a sexual act or whose intimate parts are exposed if the image involves
58 voluntary exposure in a public or commercial setting; or

59 (4) The intentional dissemination of an image of another identifiable person who
60 is engaged in a sexual act or whose intimate parts are exposed if the dissemination serves
61 a lawful public purpose.

62 4. Nothing in this section shall be construed to impose liability upon the following
63 entities solely as a result of content or information provided by another person:

64 (1) An interactive computer service, as defined in 47 U.S.C. Section 230(f)(2), except
65 where such a service had actual notice that its service was being used in violation of this
66 section and failed to take corrective action to remove the offending material from its
67 service within five business days of receipt of such notice;

68 (2) A provider of public mobile services or private mobile radio services; or

69 (3) A telecommunications network or broadband provider.

70 5. A person convicted under this section is subject to the forfeiture provisions under
71 sections 513.600 to 513.660.

72 6. The offense of nonconsensual dissemination of private sexual images is a class
73 D felony.

74 7. In addition to the criminal penalties listed in subsection 6 of this section, the
75 person in violation of the provisions of this section shall also be subject to a private cause
76 of action from the depicted person. Any successful private cause of action brought under
77 this subsection shall result in an award equal to ten thousand dollars or actual damages,
78 whichever is greater, and in addition shall include attorney's fees. Humiliation or
79 embarrassment shall be an adequate show that the plaintiff has incurred damages;
80 however, no physical manifestation of either humiliation or embarrassment is necessary
81 for damages to be shown.

573.112. 1. A person commits the offense of threatening the nonconsensual
2 dissemination of private sexual images if he or she gains or attempts to gain anything of
3 value, or coerces or attempts to coerce another person to act or refrain from acting, by
4 threatening to disseminate an image of another person, which was obtained under

5 **circumstances in which a reasonable person would know or understand that the image was**
6 **to remain private, against the will of such person:**

7 **(1) Who is at least eighteen years of age;**

8 **(2) Who is identifiable from the image itself or information displayed in connection**
9 **with the image; and**

10 **(3) Who is engaged in a sexual act or whose intimate parts are exposed, in whole**
11 **or in part.**

12 **2. The offense of threatening the nonconsensual dissemination of private sexual**
13 **images is a class E felony.**

✓