

SENATE SUBSTITUTE
FOR
SENATE COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1558

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:

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

4 573.110. 1. As used in this section and section 573.112,
5 the following terms mean:

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

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

14 (3) "Data", a representation in any form of information,
15 knowledge, facts, concepts, or instructions including, but not
16 limited to, program documentation, that is prepared or has been

1 prepared in a formalized manner and is stored or processed in or
2 transmitted by a computer or in a system or network. Data is
3 considered property and may be in any form including, but not
4 limited to, printouts, magnetic or optical storage media, punch
5 cards, data stored internally in the memory of the computer, or
6 data stored externally that is accessible by the computer;

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

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

14 (6) "Private mobile radio services", private land mobile
15 radio services and other communications services characterized by
16 the public service commission as private mobile radio services;

17 (7) "Public mobile services", air-to-ground radio telephone
18 services, cellular radio telecommunications services, offshore
19 radio, rural radio services, public land mobile telephone
20 services, and other common carrier radio communications services;

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

23 (9) "Sexual activity", any:

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

28 (b) Transfer or transmission of semen upon any part of the

1 clothed or unclothed body of the victim for the purpose of sexual
2 gratification or arousal of the victim or another;

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

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

5 (e) Sadomasochism abuse in any sexual context.

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

8 (1) Intentionally disseminates with the intent to harass,
9 threaten, or coerce an image of another person:

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

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

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

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

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

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

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

26 (2) The intentional dissemination of an image of another
27 identifiable person who is engaged in a sexual act or whose
28 intimate parts are exposed if the dissemination is for the

1 purpose of, or in connection with, the reporting of unlawful
2 conduct;

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

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

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

14 (1) An interactive computer service, as defined in 47
15 U.S.C. Section 230(f)(2);

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

18 (3) A telecommunications network or broadband provider.

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

21 6. The offense of nonconsensual dissemination of private
22 sexual images is a class D felony.

23 7. In addition to the criminal penalties listed in
24 subsection 6 of this section, the person in violation of the
25 provisions of this section shall also be subject to a private
26 cause of action from the depicted person. Any successful private
27 cause of action brought under this subsection shall result in an
28 award equal to ten thousand dollars or actual damages, whichever

1 is greater, and in addition shall include attorney's fees.
2 Humiliation or embarrassment shall be an adequate show that the
3 plaintiff has incurred damages; however, no physical
4 manifestation of either humiliation or embarrassment is necessary
5 for damages to be shown.

6 573.112. 1. A person commits the offense of threatening
7 the nonconsensual dissemination of private sexual images if he or
8 she gains or attempts to gain anything of value, or coerces or
9 attempts to coerce another person to act or refrain from acting,
10 by threatening to disseminate an image of another person, which
11 was obtained under circumstances in which a reasonable person
12 would know or understand that the image was to remain private,
13 against the will of such person:

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

15 (2) Who is identifiable from the image itself or
16 information displayed in connection with the image; and

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

19 2. The offense of threatening the nonconsensual
20 dissemination of private sexual images is a class E felony.