

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill No. 60, Page
2 7, Section 559.106, Line 29, by inserting after said section and line the following:

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

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

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

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

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

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

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

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

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

28 (9) "Sexual activity", any:

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

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

Action Taken _____ Date _____

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

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

- (a) Who is at least eighteen years of age;
- (b) Who is identifiable from the image itself or information displayed in connection with the image; and
- (c) Who is engaged in a sexual act or whose intimate parts are exposed, in whole or in part;
- (2) Obtains the image under circumstances in which a reasonable person would know or understand that the image was to remain private; and
- (3) Knows or should have known that the person in the image did not consent to the dissemination.

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

- (1) The intentional dissemination of an image of another identifiable person who is engaged in a sexual act or whose intimate parts are exposed if the dissemination is made for the purpose of a criminal investigation that is otherwise lawful;
- (2) The intentional dissemination of an image of another identifiable person who is engaged in a sexual act or whose intimate parts are exposed if the dissemination is for the purpose of, or in connection with, the reporting of unlawful conduct;
- (3) The intentional dissemination of an image of another identifiable person who is engaged in a sexual act or whose intimate parts are exposed if the image involves voluntary exposure in a public or commercial setting; or
- (4) The intentional dissemination of an image of another identifiable person who is engaged in a sexual act or whose intimate parts are exposed if the dissemination serves a lawful public purpose.

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

- (1) An interactive computer service, as defined in 47 U.S.C. Section 230(f)(2);
- (2) A provider of public mobile services or private mobile radio services; or
- (3) A telecommunications network or broadband provider.

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

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

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

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.