

FIRST REGULAR SESSION

# HOUSE BILL NO. 925

100TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE NEELY.

1517H.011

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To repeal section 573.110, RSMo, and to enact in lieu thereof one new section relating to the offense of nonconsensual dissemination of private sexual images.

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

2 Section A. Section 573.110, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 573.110, to read as follows:

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

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

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

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

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

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.

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

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

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

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

26 (9) "Sexual activity", any:

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

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

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

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

34 (e) Sadomasochism abuse in any sexual context.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

65 (3) A telecommunications network or broadband provider.

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

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

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

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