

HB 362 -- DISCLOSURE OF INTIMATE DIGITAL DEPICTIONS

SPONSOR: Williams

COMMITTEE ACTION: Voted "Do Pass" by the Standing Committee on Crime and Public Safety by a vote of 17 to 0. Voted "Do Pass" by the Standing Committee on Rules-Legislative by a vote of 8 to 0.

Except as provided in the bill, an individual who is the subject of an "intimate digital depiction", as defined in the bill, that is disclosed without the consent of the individual and made by a person who knows or recklessly disregards that the individual has not consented can bring a civil action against the other person.

In the case of an individual who is a minor or otherwise in need of representation, a representative may assume the individual's rights as listed in the bill, but in no event can the defendant be named as such representative.

For the purposes of a civil action based on disclosure of an intimate digital depiction: an individual's "consent", as defined in the bill, to the intimate digital depiction's creation will not establish consent to its disclosure. Consent will be considered validly given only if the requirements listed in the bill are fulfilled.

This bill lists what an individual may recover in the event of a civil action based on disclosure of an intimate digital depiction, what the court may order as relief, and in what situations an individual may not bring an action for relief. A disclaimer stating that the intimate digital depiction was unauthorized or that the depicted individual, as defined in the bill, was not involved in the development of the material is not a defense.

The bill establishes the offense of disclosure of an intimate digital depiction, which a person commits if the person discloses or threatens to disclose an intimate digital depiction: with the intent to harass, annoy, threaten, alarm, or cause harm to the depicted individual; or with the actual knowledge that, or reckless disregard for whether, such disclosure or threatened disclosure will cause harm to the depicted individual.

The bill lists the penalties associated with the offense of disclosure of an intimate digital depiction as well as whether certain defenses can be applied to the offense.

A provider of an interactive computer service will not be held liable in relation to an unauthorized digital depiction for attempting to restrict access to said digital depiction.

PROPONENTS: Supporters say that this bill seeks to stop "deep fake" pornographic images from being disseminated. It is a civil matter currently, so this bill creates a criminal penalty. There are many ways to bypass safety filters to publish harmful content. There are several cases in other states, including a case out of Lancaster County, Pennsylvania, in which some students created images of over 48 other students and the students who created the images were able to be charged with sexual offenses. Receiving an image is not criminal unless that person then shares the image. Deep fake technology and methodology is a very common tactic used these days.

Testifying in person for the bill were Representative Williams; Missouri Coalition Against Domestic and Sexual Violence.

OPPONENTS: There was no opposition voiced to the committee.

Written testimony has been submitted for this bill. The full written testimony and witnesses testifying online can be found under Testimony on the bill page on the House website.