

STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 1257

By: Holt and Stanislawski of
the Senate

and

Jordan of the House

COMMITTEE SUBSTITUTE

An Act relating to non-consensual dissemination of sexual images; providing definitions; stating elements of certain unlawful act; providing exceptions; subjecting convicted persons to forfeiture proceedings; providing penalties; authorizing courts to enter certain orders; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1040.13b of Title 21, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Image" includes a photograph, film, videotape, digital recording or other depiction or portrayal of an object, including a human body;

1 2. "Intimate parts" means the fully unclothed, partially
2 unclothed or transparently clothed genitals, pubic area or female
3 adult nipple; and

4 3. "Sexual act" means sexual intercourse including genital,
5 anal or oral sex;

6 B. A person commits non-consensual dissemination of private
7 sexual images when he or she:

8 1. Intentionally disseminates an image of another person:

9 a. who is at least eighteen (18) years of age,

10 b. who is identifiable from the image itself or
11 information displayed in connection with the image,
12 and

13 c. who is engaged in a sexual act or whose intimate parts
14 are exposed, in whole or in part;

15 2. Disseminates the image with the intent to harass, intimidate
16 or coerce the person, or under circumstances in which a reasonable
17 person would know or understand that dissemination of the image
18 would harass, intimidate or coerce the person;

19 3. Obtains the image under circumstances in which a reasonable
20 person would know or understand that the image was to remain
21 private; and

22 4. Knows or a reasonable person should have known that the
23 person in the image has not consented to the dissemination.
24

1 C. The provisions of this section shall not apply to the
2 intentional dissemination of an image of another identifiable person
3 who is engaged in a sexual act or whose intimate parts are exposed
4 when:

5 1. The dissemination is made for the purpose of a criminal
6 investigation that is otherwise lawful;

7 2. The dissemination is for the purpose of, or in connection
8 with, the reporting of unlawful conduct;

9 3. The images involve voluntary exposure in public or
10 commercial settings; or

11 4. The dissemination serves a lawful purpose.

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

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

17 2. A wireless service provider, as defined in Section 332(d) of
18 the Telecommunications Act of 1996, 47 U.S.C., Section 151 et seq.
19 Federal Communications Commission rules, and the Omnibus Budget
20 Reconciliation Act of 1993, Pub. L. No 103-66; or

21 3. A telecommunications network or broadband provider.

22 E. A person convicted under this section is subject to the
23 forfeiture provisions in Section 1040.54 of Title 21 of the Oklahoma
24 Statutes.

1 F. Any person who violates the provisions of this section shall
2 be guilty of a misdemeanor punishable by imprisonment in a county
3 jail for not more than one (1) year or by a fine of not more than
4 One Thousand Dollars (\$1,000.00), or both such fine and
5 imprisonment.

6 G. The court shall have the authority to order the defendant to
7 remove the disseminated image should the court find it is in the
8 power of the defendant to do so.

9 SECTION 2. This act shall become effective November 1, 2016.

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