

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 HOUSE BILL 1440

By: Hasenbeck

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5
6 AS INTRODUCED

7 An Act relating to crimes and punishments; amending
8 21 O.S. 2021, Section 1040.13b, which relates to the
9 Oklahoma Law on Obscenity and Child Pornography;
10 providing statute of limitations for the
11 nonconsensual dissemination of private sexual images;
12 and providing an effective date.

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

14 SECTION 1. AMENDATORY 21 O.S. 2021, Section 1040.13b, is
15 amended to read as follows:

16 Section 1040.13b A. As used in this section:

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

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

23 3. "Sexual act" means sexual intercourse including genital,
24 anal or oral sex.

1 B. A person commits nonconsensual dissemination of private
2 sexual images when he or she:

3 1. Intentionally disseminates an image of another person:

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

5 b. who is identifiable from the image itself or
6 information displayed in connection with the image,
7 and

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

10 2. Disseminates the image with the intent to harass, intimidate
11 or coerce the person, or under circumstances in which a reasonable
12 person would know or understand that dissemination of the image
13 would harass, intimidate or coerce the person;

14 3. Obtains the image under circumstances in which a reasonable
15 person would know or understand that the image was to remain
16 private; and

17 4. Knows or a reasonable person should have known that the
18 person in the image has not consented to the dissemination.

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

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

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

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

5 4. The dissemination serves a lawful purpose.

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

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

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

15 3. A telecommunications network or broadband provider.

16 E. A person convicted under this section is subject to the
17 forfeiture provisions in Section 1040.54 of this title.

18 F. Any person who violates the provisions of subsection B of
19 this section shall, upon conviction, be guilty of a misdemeanor
20 punishable by imprisonment in a county jail for not more than one
21 (1) year, or by a fine of not more than One Thousand Dollars
22 (\$1,000.00), or both such fine and imprisonment.

23 G. Any person who violates the provisions of this section and
24 who gains or attempts to gain financially or who gains or attempts

1 to gain anything of value as a result of the nonconsensual
2 dissemination of private sexual images shall, upon conviction, be
3 guilty of a felony punishable by imprisonment in the custody of the
4 Department of Corrections for not more than four (4) years. A
5 second or subsequent violation of this subsection shall be a felony
6 punishable by imprisonment in the custody of the Department of
7 Corrections for not more than ten (10) years and the offender shall
8 be required to register as a sex offender under the Sex Offenders
9 Registration Act.

10 H. The state shall not have the discretion to file a
11 misdemeanor charge, pursuant to Section 234 of Title 22 of the
12 Oklahoma Statutes, for a violation pursuant to subsection G of this
13 section.

14 I. The court shall have the authority to order the defendant to
15 remove the disseminated image should the court find it is in the
16 power of the defendant to do so.

17 J. There is no limitation of the time within which a
18 prosecution for a violation of subsection B of this section must be
19 commenced. Such prosecution may be commenced at any time after the
20 discovery of the crime. For purposes of this subsection,
21 "discovery" means the date the crime is reported to a law
22 enforcement agency.

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SECTION 2. This act shall become effective November 1, 2023.

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