
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2107 Session of
2014

INTRODUCED BY MURT, TOOHL, CALTAGIRONE, MILLARD, MCGEEHAN,
PASHINSKI, KINSEY, FARINA, GODSHALL, PARKER, ROZZI, HEFFLEY,
FLECK, C. HARRIS, DeLUCA, COHEN AND WATSON, MARCH 18, 2014

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 18, 2014

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and
2 Judicial Procedure) of the Pennsylvania Consolidated
3 Statutes, in definition of sexual offenses, providing for
4 unlawful dissemination of intimate image; and, in particular
5 rights and immunities, providing for damages in actions for
6 unlawful dissemination of intimate image.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Title 18 of the Pennsylvania Consolidated
10 Statutes is amended by adding a section to read:

11 § 3131. Unlawful dissemination of intimate image.

12 (a) Offense defined.--Except as provided in sections 5903
13 (relating to obscene and other sexual material and
14 performances), 6312 (relating to sexual abuse of children) and
15 6321 (relating to transmission of sexually explicit images by
16 minor), a person commits the offense of unlawful dissemination
17 of intimate image if, with intent to cause emotional distress to
18 the person depicted, the person disseminates a visual depiction
19 of another person in a state of nudity or engaged in sexual

1 conduct.

2 (b) Defense.--It is a defense to a prosecution under this
3 section that the actor disseminated the visual depiction with
4 the consent of the person depicted.

5 (c) Grading.--A person who violates subsection (a) commits a
6 misdemeanor of the third degree and shall, upon conviction, be
7 sentenced to pay a fine of \$1,000 or to imprisonment for not
8 more than six months, or both. Each violation shall constitute a
9 separate offense.

10 (d) Territorial applicability.--A person may be convicted
11 under the provisions of this section if the victim or the
12 offender is located within this Commonwealth.

13 (e) Nonapplicability.--Nothing in this section shall be
14 construed to apply to a law enforcement officer engaged in the
15 performance of the law enforcement officer's official duties.

16 (f) Concurrent jurisdiction to prosecute.--In addition to
17 the authority conferred upon the Attorney General by the act of
18 October 15, 1980 (P.L.950, No.164), known as the Commonwealth
19 Attorneys Act, the Attorney General shall have the authority to
20 investigate and to institute criminal proceedings for any
21 violation of this section or any series of violations involving
22 more than one county of this Commonwealth or another state. No
23 person charged with a violation of this section by the Attorney
24 General shall have standing to challenge the authority of the
25 Attorney General to investigate or prosecute the case, and, if a
26 challenge is made, the challenge shall be dismissed, and no
27 relief shall be made available in the courts of this
28 Commonwealth to the person making the challenge.

29 (g) Definitions.--As used in this section, the following
30 words and phrases shall have the meanings given to them in this

1 subsection unless the context clearly indicates otherwise:

2 "Emotional distress." As defined in section 2709.1 (relating
3 to stalking).

4 "Law enforcement officer." Any officer of the United States,
5 of the Commonwealth or political subdivision thereof, or of
6 another state or subdivision thereof, who is empowered to
7 conduct investigations of or to make arrests for offenses
8 enumerated in this title or an equivalent crime in another
9 jurisdiction, and any attorney authorized by law to prosecute or
10 participate in the prosecution of such offense.

11 "Nudity." As defined in section 5903(e) (relating to obscene
12 and other sexual materials and performances).

13 "Sexual conduct." As defined in section 5903(e) (relating to
14 obscene and other sexual materials and performances).

15 "Visual depiction." As defined in section 6321 (relating to
16 transmission of sexually explicit images by minor).

17 Section 2. Title 42 is amended by adding a section to read:
18 § 8316.1. Damages in actions for unlawful dissemination of
19 intimate image.

20 (a) Cause of action established.--A person may bring a civil
21 cause of action based upon unlawful dissemination of intimate
22 image, as defined in 18 Pa.C.S. § 3131 (relating to unlawful
23 dissemination of intimate image), in order to recover damages
24 for any loss or injury sustained as a result of the violation.

25 (b) Parties authorized to bring action.--An action may be
26 brought by a natural person or a guardian of the natural person,
27 if the person is incompetent.

28 (c) Damages.--A court of competent jurisdiction may award
29 damages as follows:

30 (1) Actual damages arising from the incident or \$500,

1 whichever is greater. Damages include loss of money,
2 reputation or property, whether real or personal. The court
3 may, in its discretion, award up to three times the actual
4 damages sustained, but not less than \$500.

5 (2) Reasonable attorney fees and court costs.

6 (3) Additional relief the court deems necessary and
7 proper.

8 (d) Other remedies preserved.--Nothing in this section shall
9 be construed to limit the ability of a person to receive
10 restitution under 18 Pa.C.S. § 1106 (relating to restitution for
11 injuries to person or property).

12 (e) Nonapplicability.--The provisions of this section shall
13 not be applicable to a law enforcement officer engaged in the
14 law enforcement officer's official duties.

15 (f) Definition.--As used in this section, the term "law
16 enforcement officer" means any officer of the United States, of
17 the Commonwealth or political subdivision thereof, or of another
18 state or subdivision thereof, who is empowered to conduct
19 investigations of or to make arrests for offenses enumerated in
20 18 Pa.C.S. (relating to crimes and offenses), or an equivalent
21 crime in another jurisdiction, and any attorney authorized by
22 law to prosecute or participate in the prosecution of such
23 offense.

24 Section 3. This act shall take effect in 60 days.