AN ACT

RELATING TO CRIMINAL LAW; MAKING UNAUTHORIZED DISTRIBUTION OF SENSITIVE IMAGES A CRIME; PROVIDING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Criminal Code is enacted to read:

UNAUTHORIZED DISTRIBUTION OF SENSITIVE IMAGES--PENALTIES.--

A. Unauthorized distribution of sensitive images consists of distributing, publishing or otherwise making available, by an electronic communications device or other means, sensitive images of a person, with or without information identifying that person, without that person's consent:

(1) with the intent to:

(a) harass, humiliate or intimidatethat person;

(b) incite another to harass, humiliate or intimidate that person;

(c) cause that person to reasonably fear for that person's own or family members' safety;

(d) cause that person to suffer

unwanted physical contact or injury; or

(e) cause that person to suffer

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(2) where the conduct is such that it would cause a reasonable person to suffer substantial emotional distress.

B. For the purpose of this section:

(1) "electronic communications device" means a computer, an internet web site or page, a video recorder, a digital camera, a fax machine, a telephone, a cellular telephone, a pager or any other device that can produce an electronically generated image, message or signal;

(2) "information service" means a service offering the capability of generating, acquiring, storing, transforming, processing, publishing, retrieving, utilizing or making available information;

(3) "interactive computer service" means any information service, system or access software provider that provides or enables computer access by multiple users;

(4) "intimate act" has the same meaning as"sexual act", as that term is defined in Section 30-9-2 NMSA1978;

(5) "sensitive images" means images, photographs, videos or other likenesses depicting or simulating an intimate act or depicting any portion of a person's genitals, or of a woman's breast below the top of the areola, that is either uncovered or visible through less-than- HJC/HB 142 Page 2 fully opaque clothing, which images may reasonably be considered to be private, intimate or inappropriate for distribution or publication without that person's consent; and

(6) "telecommunications provider" has the same meaning as set forth in Section 63-7-23 NMSA 1978.

C. Whoever commits unauthorized distribution of sensitive images is guilty of a misdemeanor. Upon a second or subsequent conviction, the offender is guilty of a fourth degree felony.

D. Nothing in this section shall be construed to impose liability on:

(1) an interactive computer service, an information service or a telecommunications provider for content provided by another person; or

(2) a person who reproduces, distributes, exhibits, publishes, transmits or otherwise disseminates content in furtherance of a legitimate public purpose, including the compilation or dissemination of news by newspapers and licensed broadcasters."

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

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