

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 1257 By: Holt and Stanislowski of
the Senate
3
4 and
5 Jordan of the House
6
7

8 [non-consensual dissemination - unlawful -
9 codification - effective date]
10

11 AUTHOR: Add the following House Coauthor: Walker

12 AUTHOR: Add the following Senate Coauthor: Pittman

13 AMENDMENT NO. 1. Strike the stricken title, enacting clause and
14 entire bill and insert

15 "An Act relating to nonconsensual dissemination of
16 sexual images; providing definitions; stating
17 elements of certain unlawful act; providing
18 exceptions; subjecting convicted persons to
19 forfeiture proceedings; providing penalties;
20 authorizing courts to enter certain orders;
21 providing for codification; and providing an
22 effective date.

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

24 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:

1 A. As used in this section:

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

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

8 3. "Sexual act" means sexual intercourse including genital,
9 anal or oral sex.

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

12 1. Intentionally disseminates an image of another person:

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

14 b. who is identifiable from the image itself or
15 information displayed in connection with the image,
16 and

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

19 2. Disseminates the image with the intent to harass, intimidate
20 or coerce the person, or under circumstances in which a reasonable
21 person would know or understand that dissemination of the image
22 would harass, intimidate or coerce the person;

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

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

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

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

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

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

16 4. The dissemination serves a lawful purpose.

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

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

22 2. A wireless service provider, as defined in Section 332(d) of
23 the Telecommunications Act of 1996, 47 U.S.C., Section 151 et seq.,
24

1 Federal Communications Commission rules, and the Omnibus Budget
2 Reconciliation Act of 1993, Pub. L. No. 103-66; or

3 3. A telecommunications network or broadband provider.

4 E. A person convicted under this section is subject to the
5 forfeiture provisions in Section 1040.54 of Title 21 of the Oklahoma
6 Statutes.

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

12 G. The court shall have the authority to order the defendant to
13 remove the disseminated image should the court find it is in the
14 power of the defendant to do so.

15 SECTION 2. This act shall become effective November 1, 2016."
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1 ENGROSSED SENATE
2 BILL NO. 1257

By: Holt and Stanislawski of
the Senate

3 and

4 Jordan of the House

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7 [non-consensual dissemination - unlawful -
8 codification - effective date]
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10 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

11 SECTION 3. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 1040.13b of Title 21, unless
13 there is created a duplication in numbering, reads as follows:

14 A. As used in this section:

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

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

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

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

1 1. Intentionally disseminates an image of another person:

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

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

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

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

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

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

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

22 1. The dissemination is made for the purpose of a criminal
23 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. 230
10 (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 this section shall
19 be guilty of a misdemeanor; provided, however, that upon a second or
20 subsequent violation of the provisions of this section, the person
21 shall be guilty of a felony punishable by imprisonment of not less
22 than one (1) year, a fine of not more than Twenty-five Thousand
23 Dollars (\$25,000.00) or both such imprisonment and fine.

24 SECTION 4. This act shall become effective November 1, 2016.

