

2015 -- H 5770

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

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A N A C T

RELATING TO CRIMINAL OFFENSES -- ELECTRONIC IMAGING DEVICES

Introduced By: Representatives Lally, Diaz, Hull, and Shekarchi

Date Introduced: February 26, 2015

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 11-64-1 of the General Laws in Chapter 11-64 entitled "Electronic  
2 Imaging Devices" is hereby amended to read as follows:

3 **11-64-1. Definitions.** -- (1) For the purposes of this section the following definitions  
4 apply:

5 (a) "Disseminate" means to make available by any means to any person.

6 (b) "Imaging Device" means any electronic instrument capable of capturing, recording,  
7 storing or transmitting visual images.

8 (c) "Intimate areas" means the naked or undergarment clad genitals, pubic area, buttocks,  
9 or any portion of the female breast below the top of the areola of a person which the person  
10 intended to be protected from public view.

11 (d) "Legal entity" means any partnership, firm, association, corporation or any agent or  
12 servant thereof.

13 (e) "Publish" means to:

14 (i) Disseminate with the intent that such image or images be made available by any  
15 means to any person or other legal entity;

16 (ii) Disseminate with the intent such images be sold by another person or legal entity;

17 (iii) Post, present, display, exhibit, circulate, advertise or allow access by any means, so  
18 as to make an image or images available to the public; or

19 (iv) Disseminate with the intent that an image or images be posted, presented, displayed,

1 exhibited, circulated, advertised or made accessible by any means, and to make such images  
2 available to the public.

3 (f) "Sell" means to disseminate to another person, or to publish, in exchange for  
4 something of value.

5 (g) "Sexually explicit conduct" means actual:

6 (i) Graphic sexual intercourse, including genital-genital, oral-genital, anal-genital, or  
7 oral-anal, or lascivious sexual intercourse where the genitals, or pubic area of any person is  
8 exhibited;

9 (ii) Bestiality;

10 (iii) Masturbation; or

11 (iv) Sadistic or masochistic abuse.

12 SECTION 2. Chapter 11-64 of the General Laws entitled "Electronic Imaging Devices"  
13 is hereby amended by adding thereto the following section:

14 **11-64-3. Unauthorized dissemination of indecent material.** – (a) A person is guilty of  
15 unauthorized dissemination of indecent material when:

16 (1) The person captures, records, stores, or receives a visual image depicting another  
17 person eighteen (18) years of age or older engaged in sexually explicit conduct or of the intimate  
18 areas of that person;

19 (2) The visual image is captured, recorded, stored, or received with or without that  
20 person's knowledge or consent and under such circumstances where the person who captured,  
21 recorded, stored, or received the visual image knew or should have known that the other person  
22 would have a reasonable expectation of privacy; and

23 (3) The person uses an imaging device to intentionally disseminate, publish, or sell such  
24 visual image without the consent of the person or all persons depicted in the visual image.

25 (b) A third-party recipient of any visual image described in subsection (a) of this section  
26 shall not be charged under this section if they did not have actual knowledge that the visual image  
27 was intentionally disseminated, published, or sold in violation of this subsection (a).

28 (c) For the purposes of this section, "intimate areas" means the naked genitals, pubic area,  
29 buttocks, or any portion of the female breast below the top of the areola of a person which the  
30 person intended to be protected from public view.

31 (d) A first violation of this section shall be a misdemeanor and, upon conviction, subject  
32 to imprisonment of not more than one year, a fine of not more than one thousand dollars (\$1,000),  
33 or both. A second or subsequent violation of this section shall be a felony and, upon conviction,  
34 subject to imprisonment for not more than three (3) years, a fine of not more than three thousand

1 dollars (\$3,000), or both.

2 (e) Those in violation of this section shall not be subject to sex offender registration  
3 requirements set forth in § 11-37.1-1 et seq., entitled "sexual offender registration and community  
4 notification act."

5 (f) Constitutionally protected activity is not subject to the provisions of this section.

6 (g) The following activities are exempt from the provisions of this section:

7 (1) The unauthorized dissemination of indecent material is made for the purposes of a  
8 criminal investigation that is otherwise lawful.

9 (2) The unauthorized dissemination of indecent material is for the purpose of, or in  
10 connection with, the reporting of unlawful conduct.

11 (3) The unauthorized dissemination of indecent material when the images involve  
12 voluntary exposure in a public or commercial setting.

13 (4) The unauthorized dissemination of indecent material when the dissemination serves a  
14 lawful purpose.

15 (h) Nothing in this section shall be construed to impose liability on an interactive  
16 computer service, as defined in 47 U.S.C. 230(f)(2), an information service, as defined in 47  
17 U.S.C. 153, or a telecommunications service, as defined in § 44-18-7.1, for content provided by  
18 another person.

19 SECTION 3. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
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RELATING TO CRIMINAL OFFENSES -- ELECTRONIC IMAGING DEVICES

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1           This act prohibits a person from electronically disseminating visual images of another  
2 engaged in sexually explicit conduct or the intimate parts of another, without that person's  
3 consent and where the person had a reasonable expectation of privacy. Constitutionally protected  
4 activity is not subject to the provisions of this section. Those in violation would be guilty of a  
5 felony and subject to not more than three (3) years imprisonment, a fine of not more than three  
6 thousand dollars (\$3,000), or both.

7           This act would take effect upon passage.

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