

HOUSE BILL NO. HB0069

Unlawful dissemination of an intimate image.

Sponsored by: Representative(s) Esquibel, K. and Senator(s)
Esquibel, F.

A BILL

for

1 AN ACT relating to crimes and offenses; creating an offense
2 for the nonconsensual dissemination of an intimate image;
3 specifying elements of the offense; providing definitions;
4 providing penalties; providing exemptions; and providing
5 for an effective date.

6

7 *Be It Enacted by the Legislature of the State of Wyoming:*

8

9 **Section 1.** W.S. 6-4-305 is created to read:

10

11 **6-4-305. Unlawful dissemination of intimate images;**
12 **definitions; penalties; exemptions from liability.**

13

14 (a) As used in this section:

15

1 (i) "Disseminate" means to sell, distribute,
2 deliver, provide, exhibit or otherwise make available to a
3 third party, but shall not include displaying an intimate
4 image to a third party in private;

5

6 (ii) "Explicit sexual conduct" means actual or
7 simulated sexual intercourse, including genital-genital,
8 oral-genital, anal-genital or oral-anal, between persons of
9 the same or opposite sex or masturbation;

10

11 (iii) "Intimate image" means a photograph,
12 motion picture film, videotape, digital image or any other
13 recording or transmission of another person who is
14 identifiable from the image itself or from information
15 displayed with or otherwise connected to the image that
16 depicts an individual's intimate parts or an individual
17 engaged in explicit sexual conduct;

18

19 (iv) "Intimate parts" means the external
20 genitalia, perineum, anus or pubes of any person or the
21 breast of a female person.

22

1 (b) A person commits the crime of unlawful
2 dissemination of an intimate image if:

3

4 (i) He knowingly and with malice or with
5 reckless disregard disseminates an intimate image of
6 another person who is eighteen (18) years of age or older;

7

8 (ii) The intimate image was captured under
9 circumstances in which the depicted person had a reasonable
10 expectation of privacy; and

11

12 (iii) The person knows or should have known that
13 the person depicted in the intimate image did not consent
14 to the dissemination of the intimate image and had a
15 reasonable expectation that the intimate image would remain
16 private.

17

18 (c) A first conviction under this section is a
19 misdemeanor punishable by imprisonment for not more than
20 one (1) year, a fine of not more than one thousand dollars
21 (\$1,000.00), or both.

22

1 (d) A second or subsequent conviction under this
2 section is a felony punishable by imprisonment for not more
3 than two (2) years, a fine of not more than two thousand
4 five hundred dollars (\$2,500.00), or both.

5
6 (e) Nothing contained in this section shall be
7 construed to impose liability on a provider of an
8 electronic communication service as defined in 18 U.S.C. §
9 2510(15), an information service as defined in 47 U.S.C. §
10 153(24), a mobile service as defined in 47 U.S.C. §
11 153(33), including a commercial mobile service as defined
12 in 47 U.S.C. § 332(d)(1), a telecommunication service as
13 defined in 47 U.S.C. § 153(53), an interactive computer
14 service as defined in 47 U.S.C. § 230(f)(2), a cable
15 service as defined in 47 U.S.C. § 522(6) or any service or
16 facility that enables the provision of services specified
17 in this subsection.

18

19 (f) This section shall not apply to the dissemination
20 of an intimate image that:

21

22 (i) The depicted person voluntarily allowed to
23 be disseminated; or

1

2

(ii) Is related to:

3

4

(A) Lawful practices of a law enforcement
5 agency;

6

7

(B) Prosecutorial agency functions;

8

9

(C) The reporting of a criminal offense; or

10

11

(D) Court or judicial proceedings.

12

13

Section 2. This act is effective July 1, 2016.

14

15

(END)