

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. HB 1558
99TH GENERAL ASSEMBLY

5278S.03T

2018

AN ACT

To amend chapter 573, RSMo, by adding thereto two new sections relating to the offense of nonconsensual dissemination of private sexual images, with a penalty provision and an emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 573, RSMo, is amended by adding thereto two new sections, to be
2 known as sections 573.110 and 573.112, to read as follows:

573.110. 1. As used in this section and section 573.112, the following terms mean:

2 **(1) "Computer", a device that accepts, processes, stores, retrieves, or outputs data**
3 **and includes, but is not limited to, auxiliary storage and telecommunications devices**
4 **connected to computers;**

5 **(2) "Computer program", a series of coded instructions or statements in a form**
6 **acceptable to a computer that causes the computer to process data and supply the results**
7 **of the data processing;**

8 **(3) "Data", a representation in any form of information, knowledge, facts,**
9 **concepts, or instructions including, but not limited to, program documentation, that is**
10 **prepared or has been prepared in a formalized manner and is stored or processed in or**
11 **transmitted by a computer or in a system or network. Data is considered property and**
12 **may be in any form including, but not limited to, printouts, magnetic or optical storage**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

13 **media, punch cards, data stored internally in the memory of the computer, or data stored**
14 **externally that is accessible by the computer;**

15 **(4) "Image", a photograph, film, videotape, digital recording, or other depiction**
16 **or portrayal of an object, including a human body;**

17 **(5) "Intimate parts", the fully unclothed, partially unclothed, or transparently**
18 **clothed genitals, pubic area, or anus or, if the person is female, a partially or fully exposed**
19 **nipple, including exposure through transparent clothing;**

20 **(6) "Private mobile radio services", private land mobile radio services and other**
21 **communications services characterized by the public service commission as private mobile**
22 **radio services;**

23 **(7) "Public mobile services", air-to-ground radio telephone services, cellular radio**
24 **telecommunications services, offshore radio, rural radio services, public land mobile**
25 **telephone services, and other common carrier radio communications services;**

26 **(8) "Sexual act", sexual penetration, masturbation, or sexual activity;**

27 **(9) "Sexual activity", any:**

28 **(a) Knowing touching or fondling by the victim or another person or animal, either**
29 **directly or through clothing, of the sex organs, anus, or breast of the victim or another**
30 **person or animal for the purpose of sexual gratification or arousal;**

31 **(b) Transfer or transmission of semen upon any part of the clothed or unclothed**
32 **body of the victim for the purpose of sexual gratification or arousal of the victim or**
33 **another;**

34 **(c) Act of urination within a sexual context;**

35 **(d) Bondage, fetter, sadism, or masochism; or**

36 **(e) Sadomasochism abuse in any sexual context.**

37 **2. A person commits the offense of nonconsensual dissemination of private sexual**
38 **images if he or she:**

39 **(1) Intentionally disseminates with the intent to harass, threaten, or coerce an**
40 **image of another person:**

41 **(a) Who is at least eighteen years of age;**

42 **(b) Who is identifiable from the image itself or information displayed in connection**
43 **with the image; and**

44 **(c) Who is engaged in a sexual act or whose intimate parts are exposed, in whole**
45 **or in part;**

46 **(2) Obtains the image under circumstances in which a reasonable person would**
47 **know or understand that the image was to remain private; and**

48 **(3) Knows or should have known that the person in the image did not consent to**
49 **the dissemination.**

50 **3. The following activities are exempt from the provisions of this section:**

51 **(1) The intentional dissemination of an image of another identifiable person who**
52 **is engaged in a sexual act or whose intimate parts are exposed if the dissemination is made**
53 **for the purpose of a criminal investigation that is otherwise lawful;**

54 **(2) The intentional dissemination of an image of another identifiable person who**
55 **is engaged in a sexual act or whose intimate parts are exposed if the dissemination is for**
56 **the purpose of, or in connection with, the reporting of unlawful conduct;**

57 **(3) The intentional dissemination of an image of another identifiable person who**
58 **is engaged in a sexual act or whose intimate parts are exposed if the image involves**
59 **voluntary exposure in a public or commercial setting; or**

60 **(4) The intentional dissemination of an image of another identifiable person who**
61 **is engaged in a sexual act or whose intimate parts are exposed if the dissemination serves**
62 **a lawful public purpose.**

63 **4. Nothing in this section shall be construed to impose liability upon the following**
64 **entities solely as a result of content or information provided by another person:**

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

66 **(2) A provider of public mobile services or private mobile radio services; or**

67 **(3) A telecommunications network or broadband provider.**

68 **5. A person convicted under this section is subject to the forfeiture provisions under**
69 **sections 513.600 to 513.660.**

70 **6. The offense of nonconsensual dissemination of private sexual images is a class**
71 **D felony.**

72 **7. In addition to the criminal penalties listed in subsection 6 of this section, the**
73 **person in violation of the provisions of this section shall also be subject to a private cause**
74 **of action from the depicted person. Any successful private cause of action brought under**
75 **this subsection shall result in an award equal to ten thousand dollars or actual damages,**
76 **whichever is greater, and in addition shall include attorney's fees. Humiliation or**
77 **embarrassment shall be an adequate show that the plaintiff has incurred damages;**
78 **however, no physical manifestation of either humiliation or embarrassment is necessary**
79 **for damages to be shown.**

573.112. 1. A person commits the offense of threatening the nonconsensual
2 **dissemination of private sexual images if he or she gains or attempts to gain anything of**
3 **value, or coerces or attempts to coerce another person to act or refrain from acting, by**
4 **threatening to disseminate an image of another person, which was obtained under**

5 **circumstances in which a reasonable person would know or understand that the image was**
6 **to remain private, against the will of such person:**

7 **(1) Who is at least eighteen years of age;**

8 **(2) Who is identifiable from the image itself or information displayed in connection**
9 **with the image; and**

10 **(3) Who is engaged in a sexual act or whose intimate parts are exposed, in whole or in**
11 **part.**

12 **2. The offense of threatening the nonconsensual dissemination of private sexual**
13 **images is a class E felony.**

Section B. Because of the urgent need to protect the safety of the citizens of this state,
2 section A of this act is deemed necessary for the immediate preservation of the public health,
3 welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of
4 the constitution, and section A of this act shall be in full force and effect upon its passage and
5 approval.

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