

SENATE BILL NO. 1506

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR HUDSON.

6400S.011

KRISTINA MARTIN, Secretary

AN ACT

To amend chapter 537, RSMo, by adding thereto one new section relating to altered sexual depictions, with penalty provisions.

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

Section A. Chapter 537, RSMo, is amended by adding thereto
2 one new section, to be known as section 537.585, to read as
3 follows:

537.585. 1. As used in this section, the following
2 terms mean:

3 (1) "Altered sexual depiction", any visual depiction
4 that, as a result of any type of digital, electronic,
5 mechanical, or other modification, alteration, or
6 adaptation, depicts a realistic version of an identifiable
7 person:

8 (a) With the nude body parts of another person as the
9 nude body parts of the identifiable person;

10 (b) With computer-generated nude body parts as the
11 nude body parts of the identifiable person; or

12 (c) Engaging in sexual conduct in which the
13 identifiable person did not engage;

14 (2) "Communication services", the transmission,
15 conveyance, or routing of voice, data, audio, video, or any
16 other information or signals, including video services, to a
17 point, or between or among points, by or through any

18 electronic, radio, satellite, cable, optical, microwave, or
19 other medium or method now in existence or hereafter
20 devised, regardless of the protocol used for such
21 transmission or conveyance. The term "communication
22 services" includes such transmission, conveyance, or routing
23 for which computer processing applications are used to act
24 on the form, code, or protocol of the content for purposes
25 of transmission, conveyance, or routing without regard to
26 whether such service is referred to as voice over internet
27 protocol services or is classified by the Federal
28 Communications Commission as enhanced or value-added. The
29 term "communication services" shall not include:

- 30 (a) Information services;
- 31 (b) Installation or maintenance of wiring or equipment
32 on a customer's premises;
- 33 (c) The sale or rental of tangible personal property;
- 34 (d) The sale of advertising including, but not limited
35 to, directory advertising;
- 36 (e) Bad check charges;
- 37 (f) Late payment charges;
- 38 (g) Billing and collection services; or
- 39 (h) Internet access service, email service, electronic
40 bulletin board service, or similar online computer services;
- 41 (3) "Covered platform", a website, online service,
42 online application, or mobile application that serves the
43 public and:
 - 44 (a) That primarily provides a forum for user-generated
45 content, including messages, videos, images, games, and
46 audio files; or
 - 47 (b) For which it is in the regular course of trade or
48 business of the website, online service, online application,

49 or mobile application to publish, curate, host, or make
50 available content of nonconsensual altered sexual depictions;

51 (4) "Generate", to create, alter, adapt, or modify any
52 image by electronic, mechanical, or other computer-generated
53 means to portray an identifiable person or to offer or agree
54 to do the same;

55 (5) "Identifiable person", a person who is
56 recognizable as an actual person by the person's face,
57 likeness, or other distinguishing characteristic, such as a
58 unique birthmark, or other recognizable feature;

59 (6) "Nude body parts", the human male or female
60 genitals, pubic area, or buttocks with less than fully
61 opaque covering; or the female breast with less than a fully
62 opaque covering of any portion thereof below the top of the
63 nipple; or the depiction of covered male genitals in a
64 discernibly turgid state. The term "nude body parts" does
65 not include a breast-feeding mother;

66 (7) "Promote", to issue, sell, give, provide, lend,
67 mail, deliver, transfer, transmit, transmute, publish,
68 distribute, circulate, disseminate, present, exhibit, send,
69 post, share, or advertise or to offer or agree to do the
70 same;

71 (8) "Visual depiction", includes, but is not limited
72 to, a photograph, picture, image, motion picture, film,
73 video, or other visual representation.

74 2. A person commits the offense of generating,
75 soliciting, or promoting or possessing with the intent to
76 promote an altered sexual depiction of an identifiable
77 person if the person:

78 (1) Generates any altered sexual depiction of an
79 identifiable person without the consent of the identifiable
80 person;

81 (2) Solicits any altered sexual depiction of an
82 identifiable person without the consent of the identifiable
83 person and knows or reasonably should know that such visual
84 depiction is an altered sexual depiction; or

85 (3) Willfully and maliciously promotes, or possesses
86 with the intent to maliciously promote, any altered sexual
87 depiction of an identifiable person without the consent of
88 the identifiable person and knows or reasonably should know
89 that such visual depiction is an altered sexual depiction.

90 3. The offense of generating, soliciting, or promoting
91 or possessing with the intent to promote an altered sexual
92 depiction of an identifiable person is a class C felony.

93 4. Every act, thing, or transaction prohibited by this
94 section constitutes a separate offense and is punishable as
95 such.

96 5. The presence of a disclaimer within an altered
97 sexual depiction that notifies a viewer that the person or
98 persons depicted did not consent to or participate in the
99 generation or promotion of the material, or that the person
100 or persons depicted did not actually perform the actions
101 portrayed, is not a defense and does not relieve a person of
102 criminal liability under this section.

103 6. An aggrieved person may initiate a civil action
104 against a person who violates subdivision (1) or (3) of
105 subsection 2 of this section to obtain appropriate relief in
106 order to prevent or remedy such violation, including all of
107 the following:

108 (1) Injunctive relief;

109 (2) Monetary damages to include ten thousand dollars
110 or actual damages incurred as a result of a violation of
111 subdivision (1) or (3) of subsection 2 of this section,
112 whichever is greater; and

(3) Reasonable attorney's fees and costs.

7. (1) No later than December 31, 2026, a covered platform shall establish a process whereby an identifiable person or an authorized person acting on behalf of such identifiable person may:

(a) Notify the covered platform of an altered sexual depiction published on the covered platform that includes a depiction of the identifiable person and was published without the consent of the identifiable person; and

(b) Submit a request for the covered platform to remove such altered sexual depiction.

(2) A notification and request for removal of an altered sexual depiction submitted under subdivision (1) of this subsection shall include, in writing:

(a) A physical or electronic signature of the identifiable person or authorized person;

(b) An identification of, and information reasonably sufficient for the covered platform to locate, the altered sexual depiction of the identifiable person;

(c) A brief statement that the identifiable person has a good faith belief that any altered sexual depiction identified under paragraph (b) of this subdivision is not consensual, including any relevant information for the covered platform to determine the altered sexual depiction was published without the consent of the identifiable person; and

(d) Information sufficient to enable the covered platform to contact the identifiable person or authorized person.

(3) A covered platform shall provide on the platform a clear and conspicuous notice, which may be provided through a clear and conspicuous link to another web page or

disclosure, of the notification and removal process established under subdivision (1) of this subsection that:

(a) Is easy to read and in plain language; and

(b) Provides information regarding the responsibilities of the covered platform under this subsection, including a description of how a person can submit a notification and request for removal.

(4) Upon receiving a valid removal request from an identifiable person or an authorized person using the process described in subdivision (1) of this subsection, a covered platform shall, as soon as practicable, but not later than forty-eight hours after receiving such request:

(a) Remove the altered sexual depiction; and

(b) Make reasonable efforts to identify and remove any known identical copies of such altered sexual depiction.

(5) A covered platform shall not be liable for any claim based on the covered platform's good faith disabling of access to, or removal of, material claimed to be a nonconsensual altered sexual depiction based on facts or circumstances from which the unlawful publishing of an altered sexual depiction is apparent, regardless of whether the altered sexual depiction is ultimately determined to be unlawful.

(6) In addition to the remedies under subsection 6 of this section, a failure to reasonably comply with the notice and removal obligations under this subsection shall be treated as an unfair practice under section 407.020, and the person or entity responsible shall be subject to the penalties provided in section 407.020.

(7) This subsection shall not apply to the following:

(a) An information service or a telecommunications service, as those terms are defined in 47 U.S.C. Section

153, providing services for content provided by another person;

(b) Email;

(c) Except as provided in paragraph (b) of subdivision (3) of subsection 1 of this section, an online service, application, or website:

a. That consists primarily of content that is not user generated but is preselected by the provider of such online service, application, or website; and

b. For which any chat, comment, or interactive functionality is incidental to, directly related to, or dependent on the provision of the content described in subparagraph a. of this paragraph.

8. The criminal and civil penalties provided in this section shall not apply to:

(1) A provider of an interactive computer service as defined in 47 U.S.C. Section 230(f)(2), of an information service as defined in 47 U.S.C. Section 153, or of a communications service that provides the transmission, storage, or caching of electronic communications or messages of others; another related telecommunications or commercial mobile radio service; or content provided by another person;

(2) A law enforcement officer as defined in section 590.502, or any local, state, federal, or military law enforcement agency engaged in the performance of his or her duties as a law enforcement officer or the duties of the law enforcement agency;

(3) A person reporting unlawful activity; or

(4) A person participating in a hearing, trial, or other legal proceeding.

9. A violation of this section is committed within this state if any conduct that is an element of the offense,

209 or any harm to the depicted person resulting from the
210 offense, occurs within this state.

211 10. Prosecution of a person for an offense under this
212 section shall not preclude prosecution of that person in
213 this state for a violation of any other law of this state,
214 including a law providing for greater penalties than
215 prescribed in this section or any other crime related to
216 child pornography, sexual performance by a child, or sexual
217 exploitation of a minor.

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