

SENATE BILL NO. 1748

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR MCCREERY.

5119S.02I

KRISTINA MARTIN, Secretary

AN ACT

To amend chapter 573, RSMo, by adding thereto one new section relating to the offense of disclosure of an intimate digital depiction, with penalty provisions.

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

Section A. Chapter 573, RSMo, is amended by adding thereto
2 one new section, to be known as section 573.570, to read as
3 follows:

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

3 (1) "Depicted individual", an individual who, as a
4 result of digitization or by means of digital manipulation,
5 appears in whole or in part in an intimate digital depiction
6 and who is identifiable by virtue of the individual's face,
7 likeness, or other distinguishing characteristic, such as a
8 unique birthmark or other recognizable feature, or from
9 information displayed in connection with the digital
10 depiction;

11 (2) "Digital depiction", a realistic visual depiction
12 of an individual that has been created or altered using
13 digital manipulation;

14 (3) "Information content providers", any person or
15 entity that is responsible, in whole or in part, for the
16 creation or development of information provided through the
17 internet or any other interactive computer service;

18 (4) "Intimate digital depiction", a digital depiction
19 of an individual that has been created or altered using
20 digital manipulation and that depicts:

21 (a) The uncovered genitals, pubic area, anus, or
22 postpubescent female nipple of an identifiable individual;

23 (b) The display or transfer of bodily sexual fluids:

24 a. Onto any part of the body of an identifiable
25 individual; or

26 b. From the body of an identifiable individual; or

27 (c) An identifiable individual engaging in sexually
28 explicit conduct;

29 (5) "Sexually explicit conduct", actual or simulated:

30 (a) Sexual intercourse, including genital-genital,
31 oral-genital, anal-genital, or oral-anal, whether between
32 persons of the same or opposite sex;

33 (b) Bestiality;

34 (c) Masturbation;

35 (d) Sadistic or masochistic abuse; or

36 (e) Lascivious exhibition of the genitals or pubic
37 area of any person.

38 2. A person commits the offense of disclosure of an
39 intimate digital depiction if the person:

40 (1) Discloses an intimate digital depiction:

41 (a) With the intent to harass, annoy, threaten, alarm,
42 or cause substantial harm to the finances or reputation of
43 the depicted individual; or

44 (b) With the actual knowledge that, or reckless
45 disregard for whether, such disclosure will cause physical,
46 emotional, reputational, or economic harm to the depicted
47 individual; or

48 (2) Threatens to disclose an intimate digital
49 depiction:

50 (a) With the intent to harass, annoy, threaten, alarm,
51 or cause substantial harm to the finances or reputation of
52 the depicted individual; or

53 (b) With the actual knowledge that, or reckless
54 disregard for whether, such threatened disclosure will cause
55 physical, emotional, reputational, or economic harm to the
56 depicted individual.

57 3. (1) A violation of subdivision (1) of subsection 2
58 of this section shall be a class D felony.

59 (2) A violation of subdivision (2) of subsection 2 of
60 this section shall be a class E felony.

61 (3) A violation of subdivision (1) of subsection 2 of
62 this section shall be a class C felony if:

63 (a) The violation is a second or other subsequent
64 violation of subdivision (1) of subsection 2 of this
65 section; or

66 (b) The violation is such that the digital depiction
67 could be reasonably expected to:

68 a. Affect the conduct of any administrative,
69 legislative, or judicial proceeding of a federal, state,
70 local, or tribal government agency, including the
71 administration of an election or the conduct of foreign
72 relations; or

73 b. Facilitate violence.

74 (4) A violation of subdivision (2) of subsection 2 of
75 this section shall be a class D felony if:

76 (a) The violation is a second or other subsequent
77 violation of subdivision (2) of subsection 2 of this
78 section; or

79 (b) The violation is such that the digital depiction
80 could be reasonably expected to affect the conduct of any
81 administrative, legislative, or judicial proceeding of a

82 federal, state, local, or tribal government agency,
83 including the administration of an election or the conduct
84 of foreign relations.

85 4. It shall not be a defense to an offense of
86 disclosure of an intimate digital depiction under this
87 section that there is a disclaimer stating that the intimate
88 digital depiction of the depicted individual was
89 unauthorized or that the depicted individual did not
90 participate in the creation or development of the digital
91 depiction.

92 5. For the purposes of this section, a provider of an
93 interactive computer service shall not be held to have
94 committed the offense of disclosure of an intimate digital
95 depiction due to:

96 (1) Any action voluntarily taken in good faith to
97 restrict access to or availability of intimate digital
98 depictions; or

99 (2) Any action taken to enable or make available to
100 information content providers or other persons the technical
101 means to restrict access to intimate digital depictions.

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