

2018 -- H 7452

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LC003319
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

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A N A C T

RELATING TO CRIMINAL OFFENSES - ELECTRONIC IMAGING DEVICES

Introduced By: Representatives Craven, Marszalkowski, O'Brien, Ucci, and Fogarty

Date Introduced: February 02, 2018

Referred To: House Judiciary

(Attorney General)

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.**

4 (1) For the purposes of this section the following definitions 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 (1) 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 (2) Bestiality;

10 (3) Masturbation; or

11 (4) Sadistic or masochistic abuse.

12 (h) "Visual image" means any photograph, picture, film, videotape, digital recording, or
13 other depiction, portrayal or representation of an object, including the human body.

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

16 **11-64-3. Unauthorized Dissemination of Indecent Material.**

17 (a) A person is guilty of unauthorized dissemination of indecent material when:

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

21 (2) The visual image is captured, recorded, stored, or received with or without that
22 person's knowledge or consent and under such circumstances in which a reasonable person would
23 know or understand that the image was to remain private; and

24 (3) The person intentionally, by any means, disseminates, publishes, or sells such visual
25 image without the affirmative consent of the depicted person or persons in the visual image for no
26 legitimate purpose.

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

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

33 (d) A first violation of this section shall be a misdemeanor and, upon conviction, subject
34 to imprisonment of not more than one year, a fine of not more than one thousand dollars (\$1,000),

1 or both. A second or subsequent violation of this section shall be a felony and, upon conviction,
2 subject to imprisonment for not more than three (3) years, a fine of not more than three thousand
3 dollars (\$3,000), or both.

4 (e) Any person who intentionally threatens to disclose any visual image described in
5 subsection (a) of this section and makes the threat to obtain a benefit in return for not making the
6 disclosure or in connection with the threatened disclosure, shall be guilty of a felony and, upon
7 conviction, be subject to imprisonment for up to five (5) years, a fine of up to five thousand
8 dollars (\$5,000), or both.

9 (f) Any person who demands payment of money, property, services or anything else of
10 value from a person in exchange for removing any visual image described in subsection (a) of this
11 section from public view shall be guilty of a felony and, upon conviction, be subject to
12 imprisonment for up to five (5) years, a fine of up to five thousand dollars (\$5,000), or both.

13 (g) Those in violation of this section shall not be subject to sex offender registration
14 requirements set forth in chapter 37.1 of title 11 "sexual offender registration and community
15 notification act."

16 (h) The following activities are exempt from the provisions of this section:

17 (1) The unauthorized dissemination of indecent material when the dissemination serves a
18 lawful purpose.

19 (2) The unauthorized dissemination of indecent material when the dissemination is made
20 in the course of a lawful public proceeding.

21 (3) The unauthorized dissemination of indecent material when the dissemination involves
22 voluntary nudity or sexual conduct in public or commercial settings or in a place where a person
23 does not have a reasonable expectation of privacy.

24 (4) The unauthorized dissemination of indecent material when the dissemination is made
25 in the public interest, including the reporting of unlawful conduct, or lawful and common practice
26 of law enforcement, criminal reporting, corrections, legal proceedings, medical activities,
27 scientific activities, or educational activities.

28 (5) The unauthorized dissemination of indecent material when the dissemination
29 constitutes a matter of public concern.

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

34 (j) A violation of this section is committed within this state if any conduct that is an

1 element of the offense, or any harm to the depicted person resulting from the offense, occurs
2 within this state.

3 SECTION 3. This section 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

1 This act would prohibit a person from electronically disseminating visual images of
2 another engaged in sexually explicit conduct or the intimate parts of another, under such
3 circumstances in which a reasonable person would know or understand that the image was to
4 remain private and without the depicted person's affirmative consent. This act would further
5 provide that first violations would be a misdemeanor and, upon conviction, subject to
6 imprisonment of not more than one year, a fine of not more than one thousand dollars (\$1,000), or
7 both and that a second or subsequent violation would be a felony and, upon conviction, subject to
8 imprisonment for not more than three (3) years, a fine of not more than three thousand dollars
9 (\$3,000), or both.

10 This act would take effect upon passage.

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