

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 142

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

AN ACT

RELATING TO CRIMINAL LAW; MAKING UNAUTHORIZED DISTRIBUTION OF
SENSITIVE IMAGES A CRIME; PROVIDING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Criminal Code is enacted
to read:

"~~[NEW MATERIAL]~~ UNAUTHORIZED DISTRIBUTION OF SENSITIVE
IMAGES--PENALTIES.--

A. Unauthorized distribution of sensitive images
consists of distributing, publishing or otherwise making
available, by an electronic communications device or other
means, sensitive images of a person, with or without
information identifying that person, without that person's
consent and with the intent to:

(1) harass, humiliate or intimidate that

.200276.1

underscored material = new
[bracketed material] = delete

1 person;

2 (2) incite another to harass, humiliate or
3 intimidate that person;

4 (3) cause that person to reasonably fear for
5 that person's own or family members' safety;

6 (4) cause that person to suffer unwanted
7 physical contact or injury; or

8 (5) cause that person to suffer substantial
9 emotional distress.

10 B. For the purpose of this section:

11 (1) "electronic communications device" means a
12 computer, an internet web site or page, a video recorder, a
13 digital camera, a fax machine, a telephone, a cellular
14 telephone, a pager or any other device that can produce an
15 electronically generated image, message or signal;

16 (2) "information service" means a service
17 offering the capability of generating, acquiring, storing,
18 transforming, processing, publishing, retrieving, utilizing or
19 making available information;

20 (3) "interactive computer service" means any
21 information service, system or access software provider that
22 provides or enables computer access by multiple users;

23 (4) "sensitive images" means images,
24 photographs, videos or other likenesses of any portion of a
25 person's genitals, or of a woman's breast below the top of the

1 areola, that is either uncovered or visible through less-than-
2 fully opaque clothing, which images may reasonably be
3 considered to be private, intimate or inappropriate for
4 distribution or publication without that person's consent; and

5 (5) "telecommunications provider" has the same
6 meaning as set forth in Section 63-7-23 NMSA 1978.

7 C. Whoever commits unauthorized distribution of
8 sensitive images is guilty of a misdemeanor. Upon a second or
9 subsequent conviction, the offender is guilty of a fourth
10 degree felony.

11 D. Nothing in this section shall be construed to
12 impose liability on:

13 (1) an interactive computer service, an
14 information service or a telecommunications provider for
15 content provided by another person; or

16 (2) a person who reproduces, distributes,
17 exhibits, publishes, transmits or otherwise disseminates
18 content in furtherance of a legitimate public purpose,
19 including the compilation or dissemination of news by
20 newspapers and licensed broadcasters."

21 SECTION 2. EFFECTIVE DATE.--The effective date of the
22 provisions of this act is July 1, 2015.