

ENGROSSED LEGISLATIVE BILL 371

Introduced by DeBoer, 10; Hunt, 8.

A BILL FOR AN ACT relating to the Uniform Civil Remedies for Unauthorized Disclosure of Intimate Images Act; to amend sections 25-3502 and 25-3503, Revised Statutes Cumulative Supplement, 2024; to redefine terms; to provide liability for images created by computer generation or digital manipulation; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 25-3502, Revised Statutes Cumulative Supplement, 2024, is amended to read:

25-3502 In the Uniform Civil Remedies for Unauthorized Disclosure of Intimate Images Act:

(1) Consent means affirmative, conscious, and voluntary authorization by an individual with legal capacity to give authorization.

(2) Depicted individual means an individual whose body is shown in whole or in part in an intimate image, including by means of computer generation or digital manipulation.

(3) Disclosure means transfer, publication, or distribution to another person. Disclose has a corresponding meaning.

(4) Identifiable means recognizable by a person other than the depicted individual:

(A) from an intimate image itself;

(B) from an intimate image and identifying characteristic displayed in connection with the intimate image; or

(C) from information displayed in connection with an intimate image.

(5) Identifying characteristic means information that may be used to identify a depicted individual.

(6) Individual means a human being.

(7) Intimate image means a photograph, film, video recording, or other

similar medium that shows:

(A) the uncovered genitals, pubic area, anus, or female post-pubescent nipple of a depicted individual; or

(B) a depicted individual engaging in or being subjected to sexual conduct.

(8) Person means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

(9) Sexual conduct includes:

(A) masturbation;

(B) genital, anal, or oral sex;

(C) sexual penetration of, or with, an object;

(D) bestiality; or

(E) the transfer of semen onto a depicted individual.

Sec. 2. Section 25-3503, Revised Statutes Cumulative Supplement, 2024, is amended to read:

25-3503 (a) In this section:

(1) Harm includes physical harm, economic harm, and emotional distress whether or not accompanied by physical or economic harm.

(2) Private means:

(A) created or obtained under circumstances in which a depicted individual had a reasonable expectation of privacy;

(B) made accessible through theft, bribery, extortion, fraud, false pretenses, voyeurism, or exceeding authorized access to an account, message, file, device, resource, or property; or

(C) created by means of computer generation or digital manipulation without the consent of the depicted individual.

(b) Except as otherwise provided in section 25-3504, a depicted individual who is identifiable and who suffers harm from a person's intentional disclosure or threatened disclosure of an intimate image that was private without the depicted individual's consent has a cause of action against the person if the

person knew or acted with reckless disregard for whether:

- (1) the depicted individual did not consent to the disclosure;
- (2) the intimate image was private; and
- (3) the depicted individual was identifiable.

(c) The following conduct by a depicted individual does not establish by itself that the individual consented to the disclosure of the intimate image which is the subject of an action under the Uniform Civil Remedies for Unauthorized Disclosure of Intimate Images Act or that the individual lacked a reasonable expectation of privacy:

- (1) consent to creation of the image; or
- (2) previous consensual disclosure of the image.

(d) A depicted individual who does not consent to the sexual conduct or uncovering of the part of the body depicted in an intimate image of the individual retains a reasonable expectation of privacy even if the image was created when the individual was in a public place.

Sec. 3. Original sections 25-3502 and 25-3503, Revised Statutes Cumulative Supplement, 2024, are repealed.

PRESIDENT OF THE LEGISLATURE

*THIS IS TO CERTIFY that the within LB 371 was passed by the One Hundred Ninth
Legislature of Nebraska at its First Session on the day
of 20.....*

CLERK OF THE LEGISLATURE

Approved:

..... 20....., o'clockM.

GOVERNOR