An Act

ENROLLED SENATE
BILL NO. 1257

By: Holt, Stanislawski and Pittman of the Senate

and

Jordan and Walker of the House

An Act relating to nonconsensual dissemination of sexual images; providing definitions; stating elements of certain unlawful act; providing exceptions; subjecting convicted persons to forfeiture proceedings; providing penalties; authorizing courts to enter certain orders; providing for codification; and providing an effective date.

SUBJECT: Criminal conduct relating to dissemination of certain images

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1040.13b of Title 21, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Image" includes a photograph, film, videotape, digital recording or other depiction or portrayal of an object, including a human body;

2. "Intimate parts" means the fully unclothed, partially unclothed or transparently clothed genitals, pubic area or female adult nipple; and

3. "Sexual act" means sexual intercourse including genital, anal or oral sex.

B. A person commits nonconsensual dissemination of private sexual images when he or she:

1. Intentionally disseminates an image of another person:

a. who is at least eighteen (18) years of age,

b. who is identifiable from the image itself or information displayed in connection with the image, and

c. who is engaged in a sexual act or whose intimate parts are exposed, in whole or in part;

2. Disseminates the image with the intent to harass, intimidate or coerce the person, or under circumstances in which a reasonable person would know or understand that dissemination of the image would harass, intimidate or coerce the person;

3. Obtains the image under circumstances in which a reasonable person would know or understand that the image was to remain private; and

4. Knows or a reasonable person should have known that the person in the image has not consented to the dissemination.

C. The provisions of this section shall not apply to the intentional dissemination of an image of another identifiable person who is engaged in a sexual act or whose intimate parts are exposed when:

1. The dissemination is made for the purpose of a criminal investigation that is otherwise lawful;

2. The dissemination is for the purpose of, or in connection with, the reporting of unlawful conduct;

3. The images involve voluntary exposure in public or commercial settings; or

4. The dissemination serves a lawful purpose.

D. Nothing in this section shall be construed to impose liability upon the following entities solely as a result of content or information provided by another person:

1. An interactive computer service, as defined in 47 U.S.C., Section 230(f)(2);

2. A wireless service provider, as defined in Section 332(d) of the Telecommunications Act of 1996, 47 U.S.C., Section 151 et seq., Federal Communications Commission rules, and the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66; or

3. A telecommunications network or broadband provider.

E. A person convicted under this section is subject to the forfeiture provisions in Section 1040.54 of Title 21 of the Oklahoma Statutes.

F. Any person who violates the provisions of this section shall be guilty of a misdemeanor punishable by imprisonment in a county jail for not more than one (1) year or by a fine of not more than One Thousand Dollars ($1,000.00), or both such fine and imprisonment.

G. The court shall have the authority to order the defendant to remove the disseminated image should the court find it is in the power of the defendant to do so.

SECTION 2. This act shall become effective November 1, 2016.

Passed the Senate the 28th day of April, 2016.

Eddie Fields
Presiding Officer of the Senate

Passed the House of Representatives the 19th day of April, 2016.

Lee R. Denney Jr.
Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 2nd

day of May, 20 16, at 2:40 o'clock P M.

By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 5th

day of May, 20 16, at 3:08 o'clock P M.

Mary Fallin
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 5th

day of May, 20 16, at 3:38 o'clock P. M.

By: [illegible]