

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

A N A C T

RELATING TO CRIMINAL OFFENSES -- ELECTRONIC IMAGING DEVICES

Introduced By: Senators DiPalma, Euer, F. Lombardi, Bissaillon, Burke, McKenney,  
LaMountain, Quezada, DeLuca, and Tikoian

Date Introduced: January 24, 2024

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 11-64-1 and 11-64-3 of the General Laws in Chapter 11-64 entitled  
2 "Electronic Imaging Devices" are hereby amended to read as follows:

3 **11-64-1. Definitions.**

4 For the purposes of this chapter the following definitions apply:

5 (1) "Disseminate" means to make available by any means to any person.

6 (2) "Harm" means bodily injury, emotional distress, financial loss, or reputational injury.

7 (3) "Identifiable" means identifiable by any person from the visual image or information  
8 offered in connection with the visual material.

9 (4) "Imaging device" means any electronic instrument capable of capturing, recording,  
10 storing, or transmitting visual images.

11 (5) "Intimate areas" means the naked or undergarment clad genitals, pubic area, buttocks,  
12 or any portion of the female breast below the top of the areola of a person that the person intended  
13 to be protected from public view.

14 (6) "Legal entity" means any partnership, firm, association, corporation, or any agent or  
15 servant thereof.

16 (7) "Minor" means any person not having reached eighteen (18) years of age.

17 ~~(7)~~(8) "Publish" means to:

18 (i) Disseminate with the intent that the image or images be made available by any means  
19 to any person or other legal entity;

1 (ii) Disseminate with the intent the images be sold by another person or legal entity;

2 (iii) Post, present, display, exhibit, circulate, advertise, or allow access by any means, so  
3 as to make an image or images available to the public; or

4 (iv) Disseminate with the intent that an image or images be posted, presented, displayed,  
5 exhibited, circulated, advertised, or made accessible by any means, and to make the images  
6 available to the public.

7 ~~(8)~~(9) “Sell” means to disseminate to another person, or to publish, in exchange for  
8 something of value.

9 (10) "Serious bodily injury" means physical injury that creates a substantial risk of death  
10 or causes serious permanent disfigurement or protracted loss or impairment of the function of any  
11 bodily member or organ.

12 ~~(9)~~(11) “Sexually explicit conduct” means actual:

13 (i) Graphic sexual intercourse, including: genital-genital, oral-genital, anal-genital, or oral-  
14 anal, or lascivious sex where the genitals or pubic area of any person is exhibited;

15 (ii) Bestiality;

16 (iii) Masturbation; or

17 (iv) Sadistic or masochistic abuse.

18 ~~(10)~~(12) “Visual image” means any photograph, film, video, or digital image or recording,  
19 whether produced by electronic, mechanical, or other means.

20 **11-64-3. Unauthorized dissemination of indecent material.**

21 (a) A person is guilty of unauthorized dissemination of a sexually explicit visual image of  
22 another person when the person intentionally, by any means, disseminates, publishes, or sells:

23 (1) A visual image that depicts another identifiable person eighteen (18) years or older  
24 engaged in sexually explicit conduct or of the intimate areas of that person;

25 (2) The visual image was made, captured, recorded, or obtained under circumstances in  
26 which a reasonable person would know or understand that the image was to remain private;

27 (3) The visual image was disseminated, published, or sold without the consent of the  
28 depicted person; and

29 (4) With knowledge or with reckless disregard for the likelihood that the depicted person  
30 will suffer harm, or with the intent to harass, intimidate, threaten, or coerce the depicted person.

31 (b) Subsection (a) shall not apply to:

32 (1) A visual image that involves voluntary exposure of intimate areas or of sexually explicit  
33 conduct in a public or commercial setting, or in a place where a person does not have a reasonable  
34 expectation of privacy;

- 1 (2) Dissemination made in the public interest, scientific activities, or educational activities ;  
2 (3) Dissemination made in the course of a lawful public proceeding;  
3 (4) Dissemination made for purposes of law enforcement, criminal reporting, corrections,  
4 legal proceedings, the reporting of unlawful conduct, or for medical treatment; or  
5 (5) Dissemination of an image that constitutes a matter of public concern, such as a matter  
6 related to a newsworthy event or related to a public figure.

7 (c) For the purposes of this section, “intimate areas” means the naked genitals, pubic area,  
8 buttocks, or any portion of the female breast below the top of the areola of a person that the person  
9 intended to protect from public view.

10 (d) A first violation of this section shall be a misdemeanor and, upon conviction, subject to  
11 imprisonment of not more than one year, a fine of not more than one thousand dollars (\$1,000), or  
12 both. A second or subsequent violation of this section shall be a felony and, upon conviction,  
13 subject to imprisonment for not more than three (3) years, a fine of not more than three thousand  
14 dollars (\$3,000), or both.

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

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

24 (g) Any person who has committed an act in violation of subsections (e) and (f) of this  
25 section shall be subjected to penalties in addition to those found in subsections (e) and (f) of this  
26 section if any of the following circumstances are proven to be true:

- 27 (1) The victim is a minor, as defined in § 11-64-1;  
28 (2) The person holds a position of authority over the victim, as defined in § 11-37-6; or  
29 (3) The person caused serious bodily injury or death to the victim during or as a result of  
30 the offense.

31 Upon conviction under subsections (g)(1) or (g)(2) of this section, a person shall be subject  
32 to imprisonment up to an additional year, a fine of up to one thousand dollars (\$1,000), or both.  
33 Upon conviction under subsection (g)(3) of this section, a person shall be subject to imprisonment  
34 up to an additional five (5) years and fined up to five thousand dollars (\$5,000).

1           ~~(e)~~(h) Those in violation of this section shall not be subject to sex offender registration  
2 requirements as set forth in chapter 37.1 of title 11 entitled “Sexual Offender Registration and  
3 Community Notification Act.”

4           ~~(h)~~(i) A violation of this section is committed within this state if any conduct that is an  
5 element of the offense, or any harm to the depicted person resulting from the offense, occurs in this  
6 state.

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

11           SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
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1           This act would provide for enhanced penalties of up to six (6) years imprisonment if a  
2 victim of unauthorized dissemination of indecent material is a minor or the offender is in a position  
3 of authority over the victim and up to ten (10) years imprisonment if the offense results in serious  
4 bodily injury or death of the victim.

5           This act would take effect upon passage.

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