

HB0071S01 compared with HB0071

~~deleted text~~ shows text that was in HB0071 but was deleted in HB0071S01.

inserted text shows text that was not in HB0071 but was inserted into HB0071S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Marie H. Poulson proposes the following substitute bill:

DISTRIBUTION OF ~~PERSONAL~~INTIMATE IMAGES

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Marie H. Poulson

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies Title 76, Utah Criminal Code, regarding distributing intimate images of a person without that person's permission.

Highlighted Provisions:

This bill:

- ▶ provides a definition of "intimate image";
- ▶ provides exceptions for lawful use of images;
- ▶ provides an exception for lawful practices and functions, including law enforcement functions and medical procedures;
- ▶ provides an exemption for defined telecommunication services; and
- ▶ provides that distribution of an intimate image of an individual, as defined and without that individual's permission, is a third degree felony.

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Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

76-5b-203, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **76-5b-203** is enacted to read:

76-5b-203. Distribution of an intimate image -- Penalty.

(1) As used in this section:

(a) "Distribute" means selling, exhibiting, displaying, wholesaling, retailing, providing, giving, granting admission to, providing access to, or otherwise transferring or presenting an image to another individual, with or without consideration.

(b) "Intimate image" means any visual depiction, photograph, film, video, recording, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, that depicts:

(i) exposed human male or female genitals or pubic area, with less than an opaque covering;

(ii) a female breast with less than an opaque covering, or any portion of the female breast below the top of the areola; or

(iii) the individual engaged in any sexually explicit conduct.

(c) "Sexually explicit conduct" means actual or simulated:

(i) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

(ii) masturbation;

(iii) bestiality;

(iv) sadistic or masochistic activities;

(v) exhibition of the genitals, pubic region, buttocks, or female breast of any individual;

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(vi) visual depiction of nudity or partial nudity;

(vii) fondling or touching of the genitals, pubic region, buttocks, or female breast; or

(viii) explicit representation of the defecation or urination functions.

(d) "Simulated sexually explicit conduct" means a feigned or pretended act of sexually explicit conduct that duplicates, within the perception of an average person, the appearance of an actual act of sexually explicit conduct.

(2) An actor commits the offense of distribution of intimate images if the actor, with the intent to cause severe emotional distress or harm, knowingly or intentionally distributes to any third party any intimate image of an individual who is 18 years of age or older, if:

(a) the actor knows ~~for has reason to know~~ that the depicted individual has not given consent to the actor to distribute the intimate image; ~~and~~

(b) the intimate image was created by or provided to the actor under circumstances in which the individual has a reasonable expectation of privacy ~~and~~; and

(c) actual harm is caused to the person and the harm is a result of the distribution under this section.

(3) This section does not apply to:

(a) (i) lawful practices of law enforcement agencies;

(ii) prosecutorial agency functions;

(iii) the reporting of a criminal offense;

(iv) court proceedings or any other judicial proceeding; or

(v) lawful and generally accepted medical practices and procedures;

(b) an intimate image if the individual portrayed in the image voluntarily allows public exposure of the image; or

(c) an intimate image that is portrayed in a lawful commercial setting.

(4) This section does not impose liability on an interactive computer service, as defined in 47 U.S.C. Sec. 230(f)(2), an information service, as defined in 47 U.S.C. Sec. 153, or a telecommunication service, as defined by Section 76-6-409.5, for content that any of these entities provide to another person.

~~(4)~~5) Distribution of an intimate image is a third degree felony.

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~~Legislative Review Note~~

~~_____ as of 1-21-14 3:10 PM~~

~~_____ Office of Legislative Research and General Counsel}~~