

**DISTRIBUTION OF PERSONAL IMAGES**

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Marie H. Poulson**

Senate Sponsor: \_\_\_\_\_

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**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; and
- ▶ provides that distribution of an intimate image of an individual, without that individual's permission, is a third degree felony.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

ENACTS:

**76-5b-203**, Utah Code Annotated 1953

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



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

29 **76-5b-203. Distribution of an intimate image -- Penalty.**

30 (1) As used in this section:

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

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

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

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

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

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

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

45 (ii) masturbation;

46 (iii) bestiality;

47 (iv) sadistic or masochistic activities;

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

50 (vi) visual depiction of nudity or partial nudity;

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

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

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

56 (2) An actor commits the offense of distribution of intimate images if the actor  
57 knowingly or intentionally distributes to any third party any intimate image of an individual  
58 who is 18 years of age or older, if:

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

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

63           (3) This section does not apply to:

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

65           (ii) prosecutorial agency functions;

66           (iii) the reporting of a criminal offense;

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

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

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

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

72           (4) 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**