

CRIMINAL LAW AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Craig Hall

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 that distribution of an intimate image of a person, without that person's permission, is a third degree felony; and
- ▶ provides that specified activities and procedures are not subject to the provisions of this bill, including law enforcement and judicial and commercial processes.

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:

H.B. 65



28 76-5b-203. Distribution of an intimate image -- Penalty.

29 (1) As used in this section:

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

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

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

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

40 (iii) the person engaged in any sexually explicit conduct.

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

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

44 (ii) masturbation;

45 (iii) bestiality;

46 (iv) sadistic or masochistic activities;

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

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

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

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

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

54 (2) (a) An actor commits the offense of distribution of an intimate image if the actor
55 knowingly distributes to any third party any intimate image of another person who is 18 years
56 of age or older, when the actor knows or should have known that the person depicted did not
57 consent to the distribution and the image was created or provided to the actor under
58 circumstances in which the person has a reasonable expectation of privacy.

59 (b) An individual who has consented to the capture or possession of an intimate image
60 of himself or herself within the context of a private or confidential relationship retains a
61 reasonable expectation of privacy regarding disclosure of the image beyond that relationship.

62 (3) The use of an intimate image in the context of the following situations is not a
63 violation under this section:

64 (a) lawful and generally accepted practices of:

65 (i) law enforcement agencies;

66 (ii) prosecutorial agencies;

67 (iii) courts and related judicial proceedings;

68 (iv) the reporting of a criminal offense;

69 (v) medical treatment procedures;

70 (b) the individual portrayed authorizes the distribution of the intimate image;

71 (c) the intimate image is a voluntary exposure by the individual in a public or
72 commercial setting; or

73 (d) the disclosure of the intimate image serves a bona fide and legitimate public
74 purpose.

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

Legislative Review Note
as of 12-30-13 7:10 AM

Office of Legislative Research and General Counsel