

HOUSE BILL NO. HB0069

Unlawful dissemination of an intimate image.

Sponsored by: Representative(s) Esquibel, K. and Senator(s)
Esquibel, F.

A BILL

for

1 AN ACT relating to crimes and offenses; creating an offense
2 for the nonconsensual dissemination of an intimate image;
3 specifying elements of the offense; providing definitions;
4 providing penalties; providing exemptions; and providing
5 for an effective date.

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7 *Be It Enacted by the Legislature of the State of Wyoming:*

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9 **Section 1.** W.S. 6-4-305 is created to read:

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11 **6-4-305. Unlawful dissemination of intimate images;**
12 **definitions; penalties; exemptions from liability.**

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14 (a) As used in this section:

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1 (i) "Disseminate" means to sell, distribute,
2 deliver, provide, exhibit or otherwise make available to a
3 third party;

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5 (ii) "Explicit sexual conduct" means actual or
6 simulated sexual intercourse, including genital-genital,
7 oral-genital, anal-genital or oral-anal, between persons of
8 the same or opposite sex, bestiality, masturbation or
9 sadistic or masochistic abuse;

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11 (iii) "Intimate image" means a photograph,
12 motion picture film, videotape, digital image or any other
13 recording or transmission of another person who is
14 identifiable from the image itself or from information
15 displayed with or otherwise connected to the image that
16 depicts an individual's intimate parts or an individual
17 engaged in explicit sexual conduct;

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19 (iv) "Intimate parts" means the external
20 genitalia, perineum, anus or pubes of any person or the
21 breast of a female person;

1 (v) "Newsworthy event" means a matter of public
2 interest, of public concern or related to a public figure
3 who is closely involved in the resolution of important
4 public questions or by reason of his or her fame shapes
5 events in areas of concern to society.

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7 (b) A person commits the crime of unlawful
8 dissemination of an intimate image if:

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10 (i) He knowingly, intentionally or with reckless
11 disregard disseminates an intimate image of another person
12 who is eighteen (18) years of age or older;

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14 (ii) The intimate image was captured under
15 circumstances in which the depicted person had a reasonable
16 expectation of privacy; and

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18 (iii) The person knows or should have known that
19 the person depicted in the intimate image did not consent
20 to the dissemination of the intimate image and had a
21 reasonable expectation that the intimate image would remain
22 private.

1 (c) A first conviction under this section is a
2 misdemeanor punishable by imprisonment for not more than
3 one (1) year, a fine of not more than one thousand dollars
4 (\$1,000.00), or both.

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6 (d) A second or subsequent conviction under this
7 section is a felony punishable by imprisonment for not more
8 than two (2) years, a fine of not more than two thousand
9 five hundred dollars (\$2,500.00), or both.

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11 (e) Nothing contained in this section shall be
12 construed to impose liability on a provider of an
13 electronic communication service as defined in 18 U.S.C. §
14 2510(15), an information service as defined in 47 U.S.C. §
15 153(24), a mobile service as defined in 47 U.S.C. §
16 153(33), including a commercial mobile service as defined
17 in 47 U.S.C. § 332(d)(1), a telecommunication service as
18 defined in 47 U.S.C. § 153(53), an interactive computer
19 service as defined in 47 U.S.C. § 230(f)(2) or a cable
20 service as defined in 47 U.S.C. § 552(6).

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22 (f) This section shall not apply to the dissemination
23 of an intimate image that:

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2 (i) The depicted person voluntarily allowed to
3 be disseminated; or

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5 (ii) Is related to:

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7 (A) A newsworthy event;

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9 (B) Lawful practices of a law enforcement
10 agency;

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12 (C) Prosecutorial agency functions;

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14 (D) The reporting of a criminal offense;

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16 (E) Court or judicial proceedings; or

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18 (F) Bona fide medical or psychological
19 treatment or an evaluation by a physician, psychologist,
20 therapist or social worker.

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