

REFERENCE TITLE: unlawful distribution of private images

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

HB 2001

Introduced by
Representative Mesnard

AN ACT

AMENDING SECTION 13-1425, ARIZONA REVISED STATUTES; RELATING TO SEXUAL
OFFENSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-1425, Arizona Revised Statutes, is amended to
3 read:

4 13-1425. Unlawful distribution of images depicting states of
5 nudity or specific sexual activities:
6 classification: definitions

7 A. It is unlawful **FOR A PERSON** to intentionally disclose, ~~display,~~
8 ~~distribute, publish, advertise or offer a photograph, videotape, film or~~
9 ~~digital recording~~ **AN IMAGE** of another person ~~in a state of nudity or engaged~~
10 ~~in specific sexual activities if the person knows or should have known that~~
11 ~~the depicted person has not consented to the disclosure.~~ **WHO IS IDENTIFIABLE**
12 **FROM THE IMAGE ITSELF OR FROM INFORMATION DISPLAYED IN CONNECTION WITH THE**
13 **IMAGE IF ALL OF THE FOLLOWING APPLY:**

14 1. **THE PERSON IN THE IMAGE IS DEPICTED IN A STATE OF NUDITY OR IS**
15 **ENGAGED IN SPECIFIC SEXUAL ACTIVITIES.**

16 2. **THE DEPICTED PERSON HAS A REASONABLE EXPECTATION OF PRIVACY.**
17 **EVIDENCE THAT A PERSON HAS SENT AN IMAGE TO ANOTHER PERSON USING AN**
18 **ELECTRONIC DEVICE DOES NOT, ON ITS OWN, REMOVE THE PERSON'S REASONABLE**
19 **EXPECTATION OF PRIVACY FOR THAT IMAGE.**

20 3. **THE IMAGE IS DISCLOSED WITH THE INTENT TO HARM, HARASS, INTIMIDATE,**
21 **THREATEN OR COERCE THE DEPICTED PERSON.**

22 B. This section does not apply to any of the following:

23 1. **THE REPORTING OF UNLAWFUL CONDUCT.**

24 ~~1-~~ 2. Lawful and common practices of law enforcement, **CRIMINAL**
25 ~~reporting, unlawful activity, or when permitted or required by law or rule in~~
26 ~~legal proceedings~~ **OR MEDICAL TREATMENT.**

27 ~~2.- Lawful and common practices of medical treatment.~~

28 3. Images involving voluntary exposure in a public or commercial
29 setting.

30 4. An interactive computer service, as defined in 47 United States
31 Code section 230(f)(2), or an information service, as defined in 47 United
32 States Code section 153, with regard to content **WHOLLY** provided by another
33 ~~person~~ **PARTY.**

34 5. **ANY DISCLOSURE THAT IS MADE WITH THE CONSENT OF THE PERSON WHO IS**
35 **DEPICTED IN THE IMAGE.**

36 C. A violation of this section is a class 5 felony, except that a
37 violation of this section is a:

38 1. Class 4 felony if the ~~depicted person is recognizable~~ **IMAGE IS**
39 **DISCLOSED BY ELECTRONIC MEANS.**

40 2. **CLASS 1 MISDEMEANOR IF A PERSON THREATENS TO DISCLOSE BUT DOES NOT**
41 **DISCLOSE AN IMAGE THAT IF DISCLOSED WOULD BE A VIOLATION OF THIS SECTION.**

42 D. For the purposes of this section: ~~,"state of nudity" and~~

43 1. **"DISCLOSE" MEANS DISPLAY, DISTRIBUTE, PUBLISH, ADVERTISE OR OFFER.**

1 2. "DISCLOSED BY ELECTRONIC MEANS" MEANS DELIVERY TO AN E-MAIL
2 ADDRESS, MOBILE DEVICE, TABLET OR OTHER ELECTRONIC DEVICE AND INCLUDES
3 DISCLOSURE ON A WEBSITE.

4 3. "HARM" MEANS PHYSICAL INJURY, FINANCIAL INJURY OR SERIOUS EMOTIONAL
5 DISTRESS.

6 4. "IMAGE" MEANS A PHOTOGRAPH, VIDEOTAPE, FILM OR DIGITAL RECORDING.

7 5. "REASONABLE EXPECTATION OF PRIVACY" MEANS THE PERSON EXHIBITS AN
8 ACTUAL EXPECTATION OF PRIVACY AND THE EXPECTATION IS REASONABLE.

9 6. "Specific sexual activities" ~~have~~ HAS the same ~~meanings~~ MEANING
10 prescribed in section 11-811, SUBSECTION D, PARAGRAPH 18, SUBDIVISIONS (a)
11 AND (b).

12 7. "STATE OF NUDITY" HAS THE SAME MEANING PRESCRIBED IN SECTION
13 11-811, SUBSECTION D, PARAGRAPH 14, SUBDIVISION (a).

14 Sec. 2. Applicability

15 A prosecution that is commenced before the effective date of this act
16 and that charges a violation of section 13-1425, Arizona Revised Statutes, as
17 added by Laws 2014, chapter 268, section 1, may only proceed if the alleged
18 conduct constitutes prohibited conduct under section 13-1425, Arizona Revised
19 Statutes, as amended by this act.

20 Sec. 3. Emergency

21 This act is an emergency measure that is necessary to preserve the
22 public peace, health or safety and is operative immediately as provided by
23 law.