

**CHAPTER 126**  
**SB 465-FN - FINAL VERSION**

03/10/2016 0823s

2016 SESSION

16-2771  
04/03

SENATE BILL            ***465-FN***

AN ACT                relative to the nonconsensual dissemination of private sexual images.

SPONSORS:            Sen. Woodburn, Dist 1; Sen. Lasky, Dist 13; Sen. Carson, Dist 14; Rep. Shurtleff,  
Merr. 11; Rep. M. Hennessey, Graf. 12

COMMITTEE:          Judiciary

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ANALYSIS

This bill establishes a penalty for nonconsensual dissemination of private sexual images.

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Explanation:          Matter added to current law appears in ***bold italics***.  
                         Matter removed from current law appears ~~[in brackets and struck through.]~~  
                         Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Sixteen*

AN ACT                    relative to the nonconsensual dissemination of private sexual images.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1            126:1 New Section; Breaches of the Peace and Related Offenses; Nonconsensual Dissemination  
2 of Private Sexual Images. Amend RSA 644 by inserting after section 9 the following new section:

3            644:9-a Nonconsensual Dissemination of Private Sexual Images.

4            I. In this section:

5                    (a) "Disseminate" means to import, publish, produce, print, manufacture, distribute,  
6 sell, lease, exhibit, or display.

7                    (b) "Image" means a photograph, film, videotape, or digital image or recording.

8                    (c) "Intimate parts" means the fully unclothed, partially unclothed, or transparently  
9 clothed genitals, pubic area, or anus, or, if the person is female, a partially or fully exposed nipple,  
10 including exposure through transparent clothing.

11                    (d) "Sexual act" means sexual penetration, masturbation, or sexual activity.

12                    (e) "Sexual activity" means any:

13                            (1) Knowing touching or fondling by any person, either directly or through clothing,  
14 of the sex organs, anus, or breast of that person, or another person, or animal; or

15                            (2) Any transfer or transmission of semen upon any part of the clothed or unclothed  
16 body of a person; or

17                            (3) An act of urination within a sexual context; or

18                            (4) Any bondage, fetter, or sadism masochism; or

19                            (5) Sadomasochism abuse in any sexual context.

20            II. A person commits nonconsensual dissemination of private sexual images when he or she:

21                    (a) Purposely, and with the intent to harass, intimidate, threaten, or coerce the depicted  
22 person, disseminates an image of such person:

23                            (1) Who is identifiable from the image itself or information displayed in connection  
24 with the image; and

25                            (2) Who is engaged in a sexual act or whose intimate parts are exposed, in whole or  
26 in part; and

27                            (b) Obtains the image under circumstances in which a reasonable person would know or  
28 understand that the person in the image intended that the image was to remain private; and

29                            (c) Knows or should have known that the person in the image has not consented to the  
30 dissemination.

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1           III. The intentional dissemination of an image of another identifiable person who is  
2 engaged in a sexual act or whose intimate parts are exposed is exempt from the provision of this  
3 section:

4               (a) When the dissemination is made for the purpose of a criminal investigation that is  
5 otherwise lawful.

6               (b) When the dissemination is for the purpose of, or in connection with, the reporting of  
7 unlawful conduct.

8               (c) When the images involve voluntary exposure in public or commercial settings.

9               (d) When the dissemination serves a lawful public purpose.

10              (e) When the dissemination is done in compliance with a subpoena or court order.

11           IV. Nothing in this section shall be construed to impose liability upon the following entities  
12 solely as a result of content or information provided by another person:

13               (a) An interactive computer service, as defined in 47 U.S.C. section 230(f)(2);

14               (b) A provider of public cellular or mobile services or private radio services; or

15               (c) A telecommunications network or broadband provider.

16           V. Any property used in committing, or facilitating the commission of, any offense under  
17 this section shall be subject to forfeiture.

18           VI. Any person who violates the provisions of this section shall be guilty of a class B felony.

19           126:2 Effective Date. This act shall take effect 60 days after its passage.

20           Approved: May 20, 2016

21           Effective Date: July 19, 2016

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