

**2017 -- S 0401**

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**S T A T E O F R H O D E I S L A N D****IN GENERAL ASSEMBLY****JANUARY SESSION, A.D. 2017**

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**A N A C T****RELATING TO CRIMINAL OFFENSES - ELECTRONIC IMAGING DEVICES**

Introduced By: Senators Lynch Prata, Lombardi, Jabour, and Doyle

Date Introduced: March 02, 2017

Referred To: Senate Judiciary

(Attorney General)

It is enacted by the General Assembly as follows:

- 1           SECTION 1. Section 11-64-1 of the General Laws in Chapter 11-64 entitled "Electronic  
2   Imaging Devices" is hereby amended to read as follows:
- 3           **11-64-1. Definitions.**
- 4           (1) For the purposes of this section the following definitions apply:
- 5           (a) "Disseminate" means to make available by any means to any person.
- 6           (b) "Imaging Device" means any electronic instrument capable of capturing, recording,  
7   storing or transmitting visual images.
- 8           (c) "Intimate areas" means the naked or undergarment clad genitals, pubic area, buttocks,  
9   or any portion of the female breast below the top of the areola of a person which the person  
10   intended to be protected from public view.
- 11           (d) "Legal entity" means any partnership, firm, association, corporation or any agent or  
12   servant thereof.
- 13           (e) "Publish" means to:
- 14           (i) Disseminate with the intent that such image or images be made available by any

15 means to any person or other legal entity;

16 (ii) Disseminate with the intent such images be sold by another person or legal entity;

17 (iii) Post, present, display, exhibit, circulate, advertise or allow access by any means, so

18 as to make an image or images available to the public; or

19 (iv) Disseminate with the intent that an image or images be posted, presented, displayed,

1 exhibited, circulated, advertised or made accessible by any means, and to make such images

2 available to the public.

3 (f) "Sell" means to disseminate to another person, or to publish, in exchange for

4 something of value.

5 (g) "Sexually explicit conduct" means actual:

6 (i) Graphic sexual intercourse, including genital-genital, oral-genital, anal-genital, or

7 oral-anal, or lascivious sexual intercourse where the genitals, or pubic area of any person is

8 exhibited;

9 (ii) Bestiality;

10 (iii) Masturbation; or

11 (iv) Sadistic or masochistic abuse.

12 (h) "Visual image" means any photograph, picture, film, videotape, digital recording, or

13 other depiction, portrayal or representation of an object, including the human body.

14 SECTION 2. Chapter 11-64 of the General Laws entitled "Electronic Imaging Devices"

15 is hereby amended by adding thereto the following section:

16 **11-64-3. Unauthorized dissemination of indecent material.**

17 (a) A person is guilty of unauthorized dissemination of indecent material when:

18 (1) The person captures, records, stores, or receives a visual image depicting another

19 person eighteen (18) years of age or older engaged in sexually explicit conduct or of the intimate

20 areas of that person;

21 (2) The visual image is captured, recorded, stored, or received with or without that

22 person's knowledge or consent and under such circumstances in which a reasonable person would

23 know or understand that the image was to remain private; and

24 (3) The person intentionally, by any means, disseminates, publishes, or sells such visual

25 image without the affirmative consent of the depicted person or persons in the visual image for no  
26 legitimate purpose.

27 (b) A third-party recipient of any visual image described in subsection (a) of this section  
28 shall not be charged under this section if they did not have actual knowledge that the visual image  
29 was intentionally disseminated, published, or sold in violation of this subsection (a) of this  
30 section.

31 (c) For the purposes of this section, "intimate areas" means the naked genitals, pubic area,  
32 buttocks, or any portion of the female breast below the top of the areola of a person which the  
33 person intended to be protected from public view.

34 (d) A first violation of this section shall be a misdemeanor and, upon conviction, subject

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1 to imprisonment of not more than one year, a fine of not more than one thousand dollars (\$1,000), 2 or  
both. A second or subsequent violation of this section shall be a felony and, upon conviction,

3 subject to imprisonment for not more than three (3) years, a fine of not more than three thousand  
4 dollars (\$3,000), or both.

5 (e) Any person who intentionally threatens to disclose any visual image described in  
6 subsection (a) of this section and makes the threat to obtain a benefit in return for not making the  
7 disclosure or in connection with the threatened disclosure shall be guilty of a felony and, upon  
8 conviction, be subject to imprisonment for up to five (5) years, a fine of up to five thousand  
9 dollars (\$5,000), or both.

10 (f) Any person who demands payment of money, property, services or anything else of  
11 value from a person in exchange for removing any visual image described in subsection (a) of this  
12 section from public view shall be guilty of a felony and, upon conviction, be subject to  
13 imprisonment for up to five (5) years, a fine of up to five thousand dollars (\$5,000), or both.

14 (g) Those in violation of this section shall not be subject to sex offender registration  
15 requirements set forth in §11-37.1-1 et seq., (Sexual Offender Registration and Community  
16 Notification Act).

17 (h) The following activities are exempt from the provisions of this section:

18 (1) The unauthorized dissemination of indecent material when the dissemination serves a

- 19 [lawful purpose.](#)
- 20       (2) [The unauthorized dissemination of indecent material when the dissemination is made](#)
- 21 [in the course of a lawful public proceeding.](#)
- 22       (3) [The unauthorized dissemination of indecent material when the dissemination involves](#)
- 23 [voluntary nudity or sexual conduct in public or commercial settings or in a place where a person](#)
- 24 [does not have a reasonable expectation of privacy.](#)
- 25       (4) [The unauthorized dissemination of indecent material when the dissemination is made](#)
- 26 [in the public interest, including the reporting of unlawful conduct, or lawful and common practice](#)
- 27 [of law enforcement, criminal reporting, corrections, legal proceedings, medical activities,](#)
- 28 [scientific activities, or educational activities.](#)
- 29       (5) [The unauthorized dissemination of indecent material when the dissemination](#)
- 30 [constitutes a matter of public concern.](#)
- 31       (i) [Nothing in this section shall be construed to impose liability on an interactive](#)
- 32 [computer service, as defined in 47 U.S.C. 230\(f\)\(2\), an information service, as defined in 47](#)
- 33 [U.S.C. 153\(24\) or a telecommunications service, as defined in §44-18-7.1, for content provided](#)
- 34 [by another person.](#)

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- 1       (j) [A violation of this section is committed within this state if any conduct that is an](#)
- 2 [element of the offense, or any harm to the depicted person resulting from the offense, occurs](#)
- 3 [within this state.](#)

4       SECTION 3. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO CRIMINAL OFFENSES - ELECTRONIC IMAGING DEVICES

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1           This act prohibits a person from electronically disseminating visual images of another  
2 engaged in sexually explicit conduct or the intimate parts of another, under such circumstances in  
3 which a reasonable person would know or understand that the image was to remain private and  
4 without the depicted person's affirmative consent. First violations would be a misdemeanor and,  
5 upon conviction, subject to imprisonment of not more than one year, a fine of not more than one  
6 thousand dollars (\$1,000), or both. Second or subsequent violations would be a felony and, upon  
7 conviction, subject to imprisonment for not more than three (3) years, a fine of not more than  
8 three thousand dollars (\$3,000), or both.

9           This act would take effect upon passage.

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