An Act To Prohibit the Unauthorized Distribution of Certain Private Images

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

Presented by Representative FREDETTE of Newport.
Be it enacted by the People of the State of Maine as follows:

Sec. 1. 17-A MRSA §511-A is enacted to read:

§511-A. Unauthorized distribution of images

1. A person is guilty of unauthorized distribution of images if the person intentionally discloses, displays, distributes, publishes, advertises or offers a photograph, videotape, film or digital recording of another person in a state of nudity or engaged in a sexual act or engaged in sexual contact when the person knows or should have known that the depicted person:

A. Is 18 years of age or older;
B. Is identifiable from the image itself or information displayed in connection with the image; and
C. Has not consented to the disclosure.

2. This section does not apply to the following:

A. Lawful and common practices of law enforcement, reporting unlawful activity, or when permitted or required by law or rule in legal proceedings;
B. Lawful and common practices of medical treatment;
C. Images involving voluntary exposure in a public or commercial setting; or
D. An interactive computer service, as defined in 47 United States Code, Section 230(f)(2), or an information service, as defined in 47 United States Code, Section 153, with regard to content provided by another person.

3. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Sexual act" has the same meaning as in section 251, subsection 1, paragraph C and also includes:
   (1) The transfer or transmission of semen upon any part of the clothed or unclothed body of the depicted person;
   (2) Urination within a sexual context;
   (3) Bondage or sadomasochism in any sexual context; and
   (4) Simulated sexual acts.
B. "Sexual contact" has the same meaning as defined in section 251, subsection 1, paragraph D and includes simulated sexual contact.
C. "State of nudity" means the fully unclothed, partially unclothed or transparently clothed genitals, pubic area, anus or if the person is female a partially or fully exposed breast below a point immediately above the top of the areola.

4. Unauthorized distribution of images is a Class D crime.
SUMMARY

This bill prohibits a person from intentionally displaying, distributing or offering a photograph, videotape, film or digital recording of another person in a state of nudity or engaged in a sexual act if that person knows or should have known that the depicted person is 18 years of age or older, is identifiable and has not consented to the disclosure. A violation of this prohibition is a Class D crime.