

HB161 ENROLLED



1 HB161
2 Q6IQ551-3
3 By Representatives Moore (P), Woods, Butler, Bedsole
4 RFD: Judiciary
5 First Read: 14-Feb-24



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1 Enrolled, An Act,

2 Related to crimes and offenses; to amend Section
3 13A-6-240, Code of Alabama 1975, as last amended by Act
4 2023-464, 2023 Regular Session; to prohibit a person from
5 creating a private image; to further provide for the crime of
6 distributing a private image; to provide for exceptions; to
7 provide criminal penalties for violations; to make
8 nonsubstantive, technical revisions to update the existing
9 code language to current style; and in connection therewith
10 would have as its purpose or effect the requirement of a new
11 or increased expenditure of local funds within the meaning of
12 Section 111.05 of the Constitution of Alabama of 2022.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. Section 13A-6-240, Code of Alabama 1975, as
15 last amended by Act 2023-464, 2023 Regular Session, is amended
16 to read as follows:

17 "§13A-6-240

18 (a) (1) A person commits the crime of distributing a
19 private image if he or she knowingly posts, emails, texts,
20 transmits, or otherwise distributes a private image when the
21 depicted ~~person~~ individual has not consented to the
22 transmission and the depicted ~~person~~ individual had a
23 reasonable expectation of privacy against transmission of the
24 private image.

25 (2) A person commits the crime of creating a private
26 image if he or she knowingly creates, records, or alters a
27 private image when the depicted individual has not consented
28 to the creation, recording, or alteration and the depicted



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29 individual had a reasonable expectation of privacy against the
30 creation, recording, or alteration of the private image.

31 (b) (1) For purposes of this section, "private image"
32 means a photograph, digital image, video, film, or other
33 recording of ~~a person~~ an individual who is identifiable from
34 the recording itself or from the circumstances of its
35 transmission and who is engaged in any act of sadomasochistic
36 abuse, sexual intercourse, sexual excitement, masturbation,
37 breast nudity, ~~as defined in Section 13A-12-190,~~ genital
38 nudity, or other sexual conduct all as defined in Section
39 13A-12-190.

40 (2) The term includes both of the following:

41 a. a ~~A~~ recording that has been edited, altered, or
42 otherwise manipulated from its original form.

43 b. A recording that a reasonable person would believe
44 actually depicts an identifiable individual, regardless of
45 whether any portion of the recording depicts another
46 individual or is artificially generated.

47 (c) (1) For purposes of this section, a "reasonable
48 expectation of privacy" includes, but is not limited to,
49 either of the following circumstances:

50 a. The ~~person~~ individual depicted in the private image
51 created it or consented to its creation believing that it
52 would remain confidential.

53 b. The sexual conduct depicted in the image was
54 involuntary.

55 (2) There is no reasonable expectation of privacy
56 against the transmission of a private image made voluntarily



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57 in a public or commercial setting.

58 (d) It is a defense to distributing a private image if
59 the distribution of the private image was made in the public
60 interest, including, but not limited to, the reporting of
61 unlawful conduct; the lawful and common practices of law
62 enforcement, legal proceedings, or medical treatment; or a
63 bona fide attempt to prevent further distribution of the
64 private image.

65 (e) ~~For the purposes of determining jurisdiction, the~~
66 ~~crime~~ The crimes of distributing a private image and creating
67 a private image shall be considered to be committed in any
68 county in which any part of the crime took place, in the
69 county of residence of the victim or defendant, or any county
70 where the image is received.

71 (f) A violation of this section is a Class A
72 misdemeanor. A subsequent adjudication or conviction under
73 this section is a Class C felony.

74 (g) No Internet service provider, search engine, cloud
75 service provider, or affiliate or subsidiary of any of the
76 same, shall be held to have violated this section solely for
77 providing access or connection to or from a website, other
78 information or content on the Internet, or a facility, system,
79 or network not under the control of the provider, including,
80 but not limited to, the transmission, download, or
81 intermediate storage of content that is a private image.

82 (h) No developer or provider of technology shall be
83 held to have violated this section solely for providing or
84 developing technology used by another person to violate this



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85 [section.](#)"

86 Section 2. Although this bill would have as its purpose
87 or effect the requirement of a new or increased expenditure of
88 local funds, the bill is excluded from further requirements
89 and application under Section 111.05 of the Constitution of
90 Alabama of 2022, because the bill defines a new crime or
91 amends the definition of an existing crime.

92 Section 3. This act shall become effective on October
93 1, 2024.



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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in and was passed by the House 22-Feb-24.

John Treadwell
Clerk

Senate	<hr/> 11-Apr-24 <hr/>	Amended and Passed
House	<hr/> 16-Apr-24 <hr/>	Concurred in Senate Amendment