



Councilmember Anita Bonds



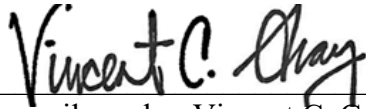
Councilmember Brooke Pinto



Councilmember Matthew Frumin



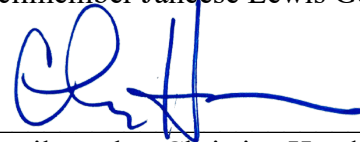
Councilmember Brianne K. Nadeau



Councilmember Vincent C. Gray



Councilmember Janeese Lewis George



Councilmember Christina Henderson

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A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend Title 15 of the District of Columbia Official Code to establish a private right of action against a person who sends an obscene unsolicited image by electronic means to another.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Forbid Lewd Activity and Sexual Harassment (“FLASH”) Act of 2023”.

Sec. 2. Title 15 of the District of Columbia Official Code, is amended to read as follows:

(a) The table of contents is amended by adding a new chapter designated to read as follows:

“Chapter 11. Civil Action for dissemination of an obscene unsolicited image to another aims §§15-1101 – 15-1103.”.

(b) A new Chapter 11 is added to read as follows:

17 “CHAPTER 11. Civil Action for dissemination of an obscene unsolicited image to
18 another.

19 “Sec. 101

20 “15-1101. Definitions.

21 “15-1102. Civil Action

22 “15-1103. Exclusions

23 “Sec. 15-1101. Definitions.

24 “(a) “Obscene image” means an image that depicts a real or fictitious person 18 years of
25 age or older engaging in or submitting to an actual or simulated:

26 (1) Sexual act;

27 (2) Sadomasochistic abuse;

28 (3) Masturbation;

29 (4) Sexual or sexualized display of the genitals, pubic area, or anus, when there is
30 less than a full opaque covering;

31 (5) Sexual contact; or

32 (6) Sexual or sexualized display of the breast below the top of the areola, or
33 buttocks, when there is less than a full opaque covering.

34 “Sec. 15-1102. Civil Action.

35 “(a) Any person 18 years of age or older who transmits an unsolicited obscene image by
36 electronic means to the electronic communication device of another person 18 years of age or
37 older may be liable to the recipient of the obscene image for the following:

38 “(1) Economic and noneconomic damages proximately caused by the receipt of
39 the image, including damages for emotional distress;

40 “(2) Statutory damages of not less than \$500 but not more than \$1,500;

41 “(3) Punitive damages;

42 “(4) Reasonable attorney fees and costs; and

43 “(5) Any other available relief, including injunctive relief.

44 “(b) The remedies provided by this section are cumulative and shall not be construed as
45 restricting a remedy that is available under any other law.

46 “(c) Venue for an action under this section may lie in the jurisdiction where the obscene
47 image is transmitted from or where the obscene image is received or possessed by the plaintiff.

48 “(d) There shall be a presumption that any transmission of an obscene image is knowing
49 unless a defendant demonstrates by preponderance of the evidence that the transmission is
50 unknowing or accidental.

51 “Sec. 15-1103 Exclusions

52 “(a) The provisions of this chapter shall not apply to:

53 “(1) Any Internet service provider, mobile data provider, or operator of an online
54 or mobile application, to the extent that such entity is transmitting, routing, or providing
55 connections for electronic communications initiated by or at the direction of another; or

56 “(2) Any service that transmits an obscene image, including an on-demand,
57 subscription, or advertising-supported service; or

58 “(3) A health care provider that transmits an obscene image for a legitimate
59 medical purpose; or

60 “(4) Any transmission of commercial electronic mail.”.

61 Sec. 3 Fiscal impact statement.

62 The Council adopts the fiscal impact statement in the committee report as the fiscal
63 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
64 approved October 16, 2006 (12 Stat. 2038; D.C. Official Code § 1-301.47a).

65 Sec. 4 Effective date.

66 This act shall take effect following approval by the Mayor (or in the event of veto by the
67 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
68 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
69 24, 1973 (87 Stat. 813; D.C. Official Code§ 1-206.02(c)(1)), and publication in the District of
70 Columbia Register.