

An Act

ENROLLED HOUSE
BILL NO. 3639

By: Hasenbeck of the House

and

Treat of the Senate

An Act relating to crimes and punishments; amending 21 O.S. 2021, Section 1040.13b, which relates to the Oklahoma Law on Obscenity and Child Pornography; modifying scope of certain unlawful acts; clarifying penalty provisions; increasing penalty for certain unlawful acts; providing for the prosecution of other unlawful acts; making certain acts unlawful; providing penalty; and providing an effective date.

SUBJECT: Crimes and punishments

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 21 O.S. 2021, Section 1040.13b, is amended to read as follows:

Section 1040.13b A. As used in this section:

1. "Image" includes a photograph, film, videotape, digital recording or other depiction or portrayal of an object, including a human body;

2. "Intimate parts" means the fully unclothed, partially unclothed or transparently clothed genitals, pubic area or female adult nipple; and

3. "Sexual act" means sexual intercourse including genital, anal or oral sex.

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

1. Intentionally disseminates an image of another person:

~~a. who is at least eighteen (18) years of age,~~

~~b. who is identifiable from the image itself or information displayed in connection with the image, and~~

~~c. who is engaged in a sexual act or whose intimate parts are exposed, in whole or in part;~~

~~2. Disseminates the image with the intent to harass, intimidate or coerce the person, or under circumstances in which a reasonable person would know or understand that dissemination of the image would harass, intimidate or coerce the person;~~

~~3. Obtains the image under circumstances in which a reasonable person would know or understand that the image was to remain private; and~~

~~4. Knows or a reasonable person should have known that the person in~~

~~3. Disseminates the image has not consented to the dissemination without the effective consent of the depicted person.~~

C. The provisions of this section shall not apply to the intentional dissemination of an image of another identifiable person who is engaged in a sexual act or whose intimate parts are exposed when:

1. The dissemination is made for the purpose of a criminal investigation that is otherwise lawful;

2. The dissemination is for the purpose of, or in connection with, the reporting of unlawful conduct;

3. The images involve voluntary exposure in public or commercial settings; or

4. The dissemination serves a lawful purpose.

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

1. An interactive computer service, as defined in 47 U.S.C., Section 230(f)(2);

2. A wireless service provider, as defined in Section 332(d) of the Telecommunications Act of 1996, 47 U.S.C., Section 151 et seq., Federal Communications Commission rules, and the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66; or

3. A telecommunications network or broadband provider.

E. A person convicted under this section is subject to the forfeiture provisions in Section 1040.54 of this title.

F. Any person who violates the provisions of subsection B of this section shall, upon conviction, be guilty of a misdemeanor punishable by imprisonment in a county jail for not more than one (1) year or by a fine of not more than One Thousand Dollars (\$1,000.00), or both such fine and imprisonment.

G. Any person who violates or attempts to violate the provisions of subsection B of this section and who gains or attempts to gain ~~financially~~ any property or who gains or attempts to gain anything of value as a result of the nonconsensual dissemination or threatened dissemination of private sexual images shall, upon conviction, be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for not more than ~~four (4)~~ five (5) years. A second or subsequent violation of this subsection shall be a felony punishable by imprisonment in the custody of the Department of Corrections for not more than ten (10) years and the offender shall be required to register as a sex offender under the Sex Offenders Registration Act.

H. The state shall not have the discretion to file a misdemeanor charge, pursuant to Section 234 of Title 22 of the Oklahoma Statutes, for a violation pursuant to subsection G of this section.

I. The court shall have the authority to order the defendant to remove the disseminated image should the court find it is in the power of the defendant to do so.

J. Nothing in this section shall prohibit the prosecution of a person pursuant to the provisions of Section 1021.2, 1021.3, 1024.1, 1024.2, or 1040.12a of this title or any other applicable statute.

K. Any person who violates the provisions of subsection B of this section by disseminating three or more images within a six-month period shall, upon conviction, be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for not more than ten (10) years.

SECTION 2. This act shall become effective November 1, 2024.

Passed the House of Representatives the 13th day of March, 2024.

Presiding Officer of the House
of Representatives

Passed the Senate the 24th day of April, 2024.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____