

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

**HOUSE BILL****No. 2107** Session of  
2014

---

INTRODUCED BY MURT, TOOHL, CALTAGIRONE, MILLARD, MCGEEHAN,  
PASHINSKI, KINSEY, FARINA, GODSHALL, PARKER, ROZZI, HEFFLEY,  
FLECK, C. HARRIS, DeLUCA, COHEN, WATSON, GILLEN AND DAVIS,  
MARCH 18, 2014

---

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF  
REPRESENTATIVES, AS AMENDED, APRIL 29, 2014

---

## AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and  
2 Judicial Procedure) of the Pennsylvania Consolidated  
3 Statutes, in definition of sexual offenses, providing for  
4 unlawful dissemination of intimate image; and, in particular  
5 rights and immunities, providing for damages in actions for  
6 unlawful dissemination of intimate image.

7 The General Assembly of the Commonwealth of Pennsylvania  
8 hereby enacts as follows:

9 Section 1. Title 18 of the Pennsylvania Consolidated  
10 Statutes is amended by adding a section to read:

11 § 3131. Unlawful dissemination of intimate image.

12 (a) Offense defined.--Except as provided in sections 5903  
13 (relating to obscene and other sexual material and  
14 performances), 6312 (relating to sexual abuse of children) and  
15 6321 (relating to transmission of sexually explicit images by  
16 minor), a person commits the offense of unlawful dissemination  
17 of intimate image if, with intent to cause emotional distress to  
18 the person depicted, the person disseminates a visual depiction

1 of another person in a state of nudity or engaged in sexual  
2 conduct.

3 (b) Defense.--It is a defense to a prosecution under this  
4 section that the actor disseminated the visual depiction with  
5 the consent of the person depicted.

6 (c) Grading.--A person who violates subsection (a) commits a  
7 misdemeanor of the third degree and shall, upon conviction, be  
8 sentenced to pay a fine of \$1,000 or to imprisonment for not  
9 more than six months, or both. Each violation shall constitute a  
10 separate offense.

11 (d) Territorial applicability.--A person may be convicted  
12 under the provisions of this section if the victim or the  
13 offender is located within this Commonwealth.

14 (e) Nonapplicability.--Nothing in this section shall be  
15 construed to apply to a law enforcement officer engaged in the  
16 performance of the law enforcement officer's official duties.

17 (f) Concurrent jurisdiction to prosecute.--In addition to  
18 the authority conferred upon the Attorney General by the act of  
19 October 15, 1980 (P.L.950, No.164), known as the Commonwealth  
20 Attorneys Act, the Attorney General shall have the authority to  
21 investigate and to institute criminal proceedings for any  
22 violation of this section or any series of violations involving  
23 more than one county of this Commonwealth or another state. No  
24 person charged with a violation of this section by the Attorney  
25 General shall have standing to challenge the authority of the  
26 Attorney General to investigate or prosecute the case, and, if a  
27 challenge is made, the challenge shall be dismissed, and no  
28 relief shall be made available in the courts of this  
29 Commonwealth to the person making the challenge.

30 (g) Definitions.--As used in this section, the following

1 words and phrases shall have the meanings given to them in this  
2 subsection unless the context clearly indicates otherwise:

3 "Emotional distress." As defined in section 2709.1 (relating  
4 to stalking).

5 "Law enforcement officer." Any officer of the United States,  
6 of the Commonwealth or political subdivision thereof, or of  
7 another state or subdivision thereof, who is empowered to  
8 conduct investigations of or to make arrests for offenses  
9 enumerated in this title or an equivalent crime in another  
10 jurisdiction, and any attorney authorized by law to prosecute or  
11 participate in the prosecution of such offense.

12 "Nudity." As defined in section 5903(e) (relating to obscene  
13 and other sexual materials and performances).

14 "Sexual conduct." As defined in section 5903(e) (relating to  
15 obscene and other sexual materials and performances).

16 "Visual depiction." As defined in section 6321 (relating to  
17 transmission of sexually explicit images by minor).

18 Section 2. Title 42 is amended by adding a section to read:  
19 § 8316.1. Damages in actions for unlawful dissemination of  
20 intimate image.

21 (a) Cause of action established.--A person may bring a civil  
22 cause of action based upon unlawful dissemination of intimate  
23 image, as defined in 18 Pa.C.S. § 3131 (relating to unlawful  
24 dissemination of intimate image), in order to recover damages  
25 for any loss or injury sustained as a result of the violation.

26 (b) Parties authorized to bring action.--An action may be  
27 brought by a natural person or a guardian of the natural person,  
28 if the person is incompetent.

29 (c) Damages.--A court of competent jurisdiction may award  
30 damages as follows: SET FORTH IN THIS SUBSECTION. IN DETERMINING <--

1 THE EXTENT OF INJURY, THE COURT SHALL CONSIDER THAT  
2 DISSEMINATION OF AN INTIMATE IMAGE MAY CAUSE LONG-TERM OR  
3 PERMANENT INJURY. THE COURT MAY AWARD:

4 (1) Actual damages arising from the incident or \$500,  
5 whichever is greater. Damages include loss of money,  
6 reputation or property, whether real or personal. The court  
7 may, in its discretion, award up to three times the actual  
8 damages sustained, but not less than \$500.

9 (2) Reasonable attorney fees and court costs.

10 (3) Additional relief the court deems necessary and  
11 proper.

12 (d) Other remedies preserved.--Nothing in this section shall  
13 be construed to limit the ability of a person to receive  
14 restitution under 18 Pa.C.S. § 1106 (relating to restitution for  
15 injuries to person or property).

16 (e) Nonapplicability.--The provisions of this section shall  
17 not be applicable to a law enforcement officer engaged in the  
18 law enforcement officer's official duties.

19 (f) Definition.--As used in this section, the term "law  
20 enforcement officer" means any officer of the United States, of  
21 the Commonwealth or political subdivision thereof, or of another  
22 state or subdivision thereof, who is empowered to conduct  
23 investigations of or to make arrests for offenses enumerated in  
24 18 Pa.C.S. (relating to crimes and offenses), or an equivalent  
25 crime in another jurisdiction, and any attorney authorized by  
26 law to prosecute or participate in the prosecution of such  
27 offense.

28 Section 3. This act shall take effect in 60 days.