
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 548 Session of
2017

INTRODUCED BY SCHWANK, HUGHES, COSTA, EICHELBERGER, SABATINA,
BREWSTER, FONTANA, YUDICHAK AND RAFFERTY, MARCH 24, 2017

REFERRED TO JUDICIARY, MARCH 24, 2017

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and
2 Judicial Procedure) of the Pennsylvania Consolidated
3 Statutes, in other offenses, providing for the offense of
4 prohibited distribution of a private image; and, in
5 particular rights and immunities, further providing for
6 damages in actions for unlawful dissemination of intimate
7 image.

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

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

12 § 7507.2. Prohibited distribution of a private image.

13 (a) Offense defined.--No person, without permission or
14 authority, shall knowingly or recklessly disseminate or
15 distribute from the possession or control of another person,
16 including from a computer, computer system, computer network,
17 electronic device or electronic storage system, a visual
18 depiction of the other person in a state of full or partial
19 nudity or engaged in sexual conduct.

20 (b) Grading.--The following shall apply:

1 (1) Except as provided under paragraph (2), a violation
2 of subsection (a) is a misdemeanor of the third degree.

3 (2) A violation of subsection (a) is a misdemeanor of
4 the first degree when the victim is a minor or the offender
5 has previously been convicted under this section or a similar
6 provision in another jurisdiction.

7 (c) Concurrent jurisdiction to prosecute.--In addition to
8 the powers and duties conferred by the act of October 15, 1980
9 (P.L.950, No.164), known as the Commonwealth Attorneys Act, the
10 Attorney General may investigate and prosecute an act or
11 continuing series of acts in violation of this section that
12 involve multiple counties or a foreign state.

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

16 (e) Nonapplicability.--This section shall not apply to a law
17 enforcement officer performing the law enforcement officer's
18 official duties.

19 (f) Definitions.--As used in this section, the following
20 words and phrases shall have the meanings given to them in this
21 subsection unless the context clearly indicates otherwise:

22 "Disseminate." As defined under section 6321(g) (relating to
23 transmission of sexually explicit images by minor).

24 "Distribute." To deliver or pass on to a third person,
25 including by providing an electronic address or other means of
26 direct access to a visual depiction on a computer, computer
27 system, computer network, electronic device or electronic
28 storage system.

29 "Full or partial nudity." As defined under section 7507.1
30 (relating to invasion of privacy).

1 "Sexual conduct." As defined under section 5903(e) (relating
2 to obscene and other sexual materials and performances).

3 "Visual depiction." As defined under section 6321(g).

4 Section 2. Section 8316.1 heading and (a) of Title 42 are
5 amended to read:

6 § 8316.1. Damages in actions for unlawful dissemination of
7 intimate image and prohibited distribution of a
8 private image.

9 (a) Cause of action established.--A person may bring a civil
10 cause of action based upon unlawful dissemination of intimate
11 image, as defined in 18 Pa.C.S. § 3131 (relating to unlawful
12 dissemination of intimate image), or prohibited distribution of
13 a private image, as defined in 18 Pa.C.S. § 7507.2 (relating to
14 prohibited distribution of a private image), in order to recover
15 damages for any loss or injury sustained as a result of the
16 violation.

17 * * *

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