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LC001703
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

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A N A C T

RELATING TO CRIMINAL OFFENSE - ELECTRONIC IMAGING DEVICES

Introduced By: Representatives Vella-Wilkinson, Lancia, Walsh, Williams, and Lima

Date Introduced: March 01, 2017

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 11-64-1 of the General Laws in Chapter 11-64 entitled "Electronic
2 Imaging Devices" is hereby amended to read as follows:

3 **11-64-1. Definitions.**

4 (1) For the purposes of this section the following definitions apply:

5 (a) "Disseminate" means to make available by any means to any person.

6 (b) "Imaging Device" means any electronic instrument capable of capturing, recording,
7 storing or transmitting visual images.

8 (c) "Intimate areas" means the naked or undergarment clad genitals, pubic area, buttocks,
9 or any portion of the female breast below the top of the areola of a person which the person
10 intended to be protected from public view.

11 (d) "Legal entity" means any partnership, firm, association, corporation or any agent or
12 servant thereof.

13 (e) "Publish" means to:

14 (i) Disseminate with the intent that such image or images be made available by any
15 means to any person or other legal entity;

16 (ii) Disseminate with the intent such images be sold by another person or legal entity;

17 (iii) Post, present, display, exhibit, circulate, advertise or allow access by any means, so
18 as to make an image or images available to the public; or

19 (iv) Disseminate with the intent that an image or images be posted, presented, displayed,

1 exhibited, circulated, advertised or made accessible by any means, and to make such images
2 available to the public.

3 (f) "Sell" means to disseminate to another person, or to publish, in exchange for
4 something of value.

5 (g) "Sexually explicit conduct" means actual:

6 (1) Graphic sexual intercourse, including genital-genital; oral-genital, anal-genital, or
7 oral-anal, or lascivious sex where the genitals, or pubic area of any person is exhibited;

8 (2) Bestiality;

9 (3) Masturbation; or

10 (4) Sadistic or masochistic abuse.

11 (h) "Visual image" means any photographic, picture, film, videotape, digital recording, or
12 other depiction, portrayal or representation of an object, including the human body.

13 SECTION 2. Section 11-9-1.4 of the General Laws in Chapter 11-9 entitled "Children" is
14 hereby amended to read as follows:

15 **11-9-1.4. Minor electronically disseminating indecent material to another person --**

16 **"Sexting" prohibited.**

17 (a) Definitions as used in this section:

18 (1) "Minor" means any person not having reached eighteen (18) years of age;

19 (2) "Computer" has the meaning given to that term in § 11-52-1;

20 (3) "Telecommunication device" means an analog or digital electronic device which
21 processes data, telephony, video, or sound transmission as part of any system involved in the
22 sending and/or receiving at a distance of voice, sound, data, and/or video transmissions;

23 (4) "Indecent visual depiction" means any digital image or digital video of ~~the~~ any minor
24 taken or obtained with or without their consent engaging in sexually explicit conduct, and
25 includes data stored on any computer, telecommunication device, or other electronic storage
26 media which is capable of conversion into a visual image;

27 (5) "Sexually explicit conduct" means actual masturbation or graphic focus on or
28 lascivious exhibition of the nude genitals or pubic area of the minor.

29 (b) No minor shall knowingly and voluntarily and without threat or coercion use a
30 computer or telecommunication device to transmit an indecent visual depiction of himself or
31 herself to another person or to post any such indecent visual depiction of themselves or any other
32 minor on any website including, but not limited to, Facebook, Twitter, Instagram or on any other
33 website or social media website by any name.

34 (c) ~~A~~ Subject to subsections (e) and (f) of this section, violation of this section shall be a

1 status offense and referred to the family court.

2 (d) The family court in adjudicating any case brought before it shall consider the purpose
3 for which such indecent visual depiction was transmitted or posted and shall take into
4 consideration whether it was transmitted with or without the consent of the subject in the
5 depiction and whether the transmittal or posting had as its sole purpose, the harassment, bullying,
6 intimidation of the subject of the depiction in determining appropriate punishment and whether
7 counseling of the offender is appropriate. Upon a finding of waywardness the court shall issue an
8 order restraining and enjoining the respondent from thereafter transmitting or posting any
9 indecent visual depictions of any minor, including the respondent.

10 (e) Any minor who intentionally threatens to transmit or post any indecent visual
11 depiction or makes a threat to transmit or post such depiction in order to obtain a benefit in return
12 for not doing so shall be punished by up to one year at the Rhode Island training school.

13 (f) Any minor who demands payment of money, property, services of anything of value
14 from a person, a person in exchange for removing the indecent visual depiction from any website
15 or from public view, shall be punished by up to one year at the Rhode Island training school.

16 ~~(d)~~(g) Any minor adjudicated under subsection (b) shall not be charged under § 11-9-1.3
17 and, further, shall not be subject to sex offender registration requirements set forth in § 11-37.1-1
18 et seq., entitled "Sexual Offender Registration and Community Notification Act."

19 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
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1 This act would define sexually explicit conduct and visual image and would prohibit
2 minors from transmitting or posting indecent visual depictions of themselves or other minors on
3 any website including Facebook, Twitter, Instagram or any other website by whatever name. It
4 would require the family court to consider whether the transmittal was with or without the
5 consent of the subject contained in the visual depiction and whether the purpose of posting such
6 depiction was for harassment, intimidation or bullying in fashioning an appropriate punishment
7 for the offending juvenile. It would also make the use of threats for not posting such depiction or
8 threats or demands of anything of value to remove the depiction a misdemeanor.

9 This act would take effect upon passage.

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