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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: Senator Erin P. Lynch Prata

Date Introduced: April 12, 2017

Referred To: Senate Judiciary

(Governor)

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 (i) 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 (ii) Bestiality;

9 (iii) Masturbation; or

10 (iv) Sadistic or masochistic abuse in a sexual context.

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. Chapter 11-64 of the General Laws entitled "Electronic Imaging Devices"
14 is hereby amended by adding thereto the following section:

15 **11-64-3. Unauthorized dissemination of indecent material.**

16 (a) A person is guilty of unauthorized dissemination of indecent material when the
17 person:

18 (1) Purposely, and with the intent to harass, intimidate, threaten, or coerce the depicted
19 person, disseminates, publishes or sells a visual image of such person who is:

20 (i) Eighteen (18) years of age or older and is identifiable from the image itself or the
21 information displayed or depicted in connection with the image; and

22 (ii) Engaged in a sexual act or whose intimate parts are exposed, in whole or in part; and

23 (2) Obtains the image under circumstances in which a reasonable person would know or
24 should have known that the person in the image intended that the image was to remain private;
25 and

26 (3) Knows or should have known that the person in the image did not consent to the
27 dissemination.

28 (b) For purposes of this section, "intimate areas" means the naked genitals, pubic area,
29 anus or any portion of the female breast below the top of the areola which the person intended to
30 be protected from public view.

31 (c) A first violation of this section shall be a misdemeanor and, upon conviction, subject
32 to imprisonment of not more than one year, a fine of not more than one thousand dollars (\$1,000),
33 or both. A second or subsequent violation of this section shall be a felony and, upon conviction,
34 subject to imprisonment for not more than three (3) years, a fine of not more than three thousand

1 dollars (\$3,000), or both.

2 (d) Any person who intentionally threatens to disclose any visual image described in
3 subsection (a) of this section, and makes the threat to obtain a benefit in return for not making the
4 disclosure or in connection with the threatened disclosure shall be guilty of a felony and, upon
5 conviction, be subject to imprisonment for up to five (5) years, a fine of up to five thousand
6 dollars (\$5,000), or both.

7 (e) Any person who demands payment of money, property, services or anything else of
8 value from a person in exchange for removing any visual image described in subsection (a) of this
9 section from public view shall be guilty of a felony and, upon conviction, be subject to
10 imprisonment for up to five (5) years, a fine of up to five thousand dollars (\$5,000), or both.

11 (f) Those in violation of this section shall not be subject to sex offender registration
12 requirements set forth in chapter 31.1 of title 11 (Sexual Offender Registration and Community
13 Notification Act.)

14 (g) The following activities are exempt from the provisions of this section:

15 (1) The unauthorized dissemination of material when the dissemination serves a lawful
16 purpose;

17 (2) The unauthorized dissemination of indecent material when the dissemination is made
18 in the course of a lawful public proceeding;

19 (3) The unauthorized dissemination of indecent material when the dissemination involves
20 voluntary nudity or sexual conduct in a public or commercial setting, or in a place where a person
21 does not have a reasonable expectation of privacy;

22 (4) The unauthorized dissemination of indecent material when the dissemination is made
23 in the public interest, including the reporting of unlawful conduct, or lawful and common practice
24 of law enforcement, criminal reporting, corrections, legal proceedings, medical activities,
25 scientific activities, or educational activities;

26 (5) The unauthorized dissemination of indecent material when the dissemination
27 constitutes a matter of public concern;

28 (h) A violation of this section shall be deemed committed in this state if any conduct that
29 is an element of the offense, or any harm to the depicted person resulting from the offense, occurs
30 in this state.

31 (i) Nothing in this section shall be construed to impose liability on any interactive
32 computer service, as defined in 47 U.S.C. §230(f)(2), an information service, as defined in 47
33 U.S.C. §153, or a telecommunications service, as defined in §44-18-7.1, for content provided by
34 another person.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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1 This act would define sexually explicit conduct and visual image and would prohibit any
2 person from disseminating any indecent image of another person without authorization for the
3 purpose of harassing, intimidating, threatening another person if that person is eighteen (18) years
4 of age or older and is identifiable from the image. Exceptions would include dissemination for
5 lawful purposes, legal proceedings, medical or educational activities. Violation of this section
6 would be a misdemeanor for a first offense and a felony for subsequent offenses. It would also
7 make demanding payment for not disclosing or refusing to remove the image from public view a
8 felony.

9 This act would take effect upon passage.

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