

The Legislature
of the
State of New Mexico

52nd Legislature, 1st Session

LAWS 2015

CHAPTER 42

HOUSE JUDICIARY COMMITTEE SUBSTITUTE

FOR HOUSE BILL 142, as amended

Introduced by



CHAPTER 42

AN ACT

RELATING TO CRIMINAL LAW; MAKING UNAUTHORIZED DISTRIBUTION OF SENSITIVE IMAGES A CRIME; PROVIDING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Criminal Code is enacted to read:

UNAUTHORIZED DISTRIBUTION OF SENSITIVE IMAGES--
PENALTIES.--

A. Unauthorized distribution of sensitive images consists of distributing, publishing or otherwise making available, by an electronic communications device or other means, sensitive images of a person, with or without information identifying that person, without that person's consent:

(1) with the intent to:

- (a) harass, humiliate or intimidate that person;
- (b) incite another to harass, humiliate or intimidate that person;
- (c) cause that person to reasonably fear for that person's own or family members' safety;
- (d) cause that person to suffer unwanted physical contact or injury; or
- (e) cause that person to suffer

1 substantial emotional distress; and

2 (2) where the conduct is such that it would
3 cause a reasonable person to suffer substantial emotional
4 distress.

5 B. For the purpose of this section:

6 (1) "electronic communications device" means
7 a computer, an internet web site or page, a video recorder, a
8 digital camera, a fax machine, a telephone, a cellular
9 telephone, a pager or any other device that can produce an
10 electronically generated image, message or signal;

11 (2) "information service" means a service
12 offering the capability of generating, acquiring, storing,
13 transforming, processing, publishing, retrieving, utilizing or
14 making available information;

15 (3) "interactive computer service" means any
16 information service, system or access software provider that
17 provides or enables computer access by multiple users;

18 (4) "intimate act" has the same meaning as
19 "sexual act", as that term is defined in Section 30-9-2 NMSA
20 1978;

21 (5) "sensitive images" means images,
22 photographs, videos or other likenesses depicting or
23 simulating an intimate act or depicting any portion of a
24 person's genitals, or of a woman's breast below the top of the
25 areola, that is either uncovered or visible through less-than-

1 fully opaque clothing, which images may reasonably be
2 considered to be private, intimate or inappropriate for
3 distribution or publication without that person's consent; and

4 (6) "telecommunications provider" has the
5 same meaning as set forth in Section 63-7-23 NMSA 1978.

6 C. Whoever commits unauthorized distribution of
7 sensitive images is guilty of a misdemeanor. Upon a second or
8 subsequent conviction, the offender is guilty of a fourth
9 degree felony.


10 D. Nothing in this section shall be construed to
11 impose liability on:

12 (1) an interactive computer service, an
13 information service or a telecommunications provider for
14 content provided by another person; or

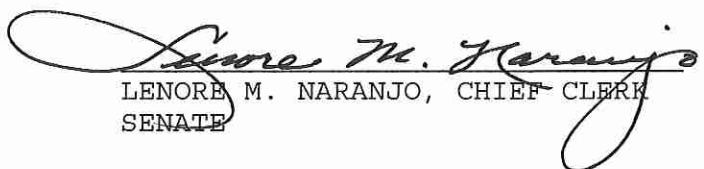
15 (2) a person who reproduces, distributes,
16 exhibits, publishes, transmits or otherwise disseminates
17 content in furtherance of a legitimate public purpose,
18 including the compilation or dissemination of news by
19 newspapers and licensed broadcasters."

20 SECTION 2. EFFECTIVE DATE.--The effective date of the
21 provisions of this act is July 1, 2015. _____


DON TRIPP, SPEAKER
HOUSE OF REPRESENTATIVES


DENISE RAMONAS, CHIEF CLERK
HOUSE OF REPRESENTATIVES


JOHN A. SANCHEZ, PRESIDENT
SENATE


LENORE M. NARANJO, CHIEF CLERK
SENATE

Approved by me this 6th day of April, 2015


SUSANA MARTINEZ, GOVERNOR
STATE OF NEW MEXICO