
Public Safety Committee

HB 1788

Brief Description: Creating the crime of criminal invasion of privacy via nonconsensual dissemination or disclosure of a sexual act or intimate parts.

Sponsors: Representatives Wylie, Holy, Ryu, Carlyle, Jinkins, Pollet, Moscoso, Appleton, Vick, Sawyer, Tarleton, Orwall, Ormsby, Farrell and Riccelli.

Brief Summary of Bill

- Creates the crime of criminal invasion of privacy via nonconsensual disclosure or dissemination of a sexual act or intimate parts.
- Creates a private right of action against a person who knowingly distributes a image of another person whose intimate parts are exposed or who is engaged in sexual acts without the person's consent.

Hearing Date: 2/13/15

Staff: Cassie Jones (786-7303).

Background:

"Revenge porn" is the phrase commonly used to describe sexually explicit media that is publicly shared without the consent of the pictured individual. "Revenge porn" may be distributed by ex-partners with an intention to shame or embarrass the individual in the image, or by hackers. Thirteen states have enacted laws which specifically target "revenge porn."

A class C felony is punishable by up to five years in prison and a \$10,000 fine.

Summary of Bill:

Criminal Penalty.

A person commits criminal invasion of privacy via nonconsensual disclosure or dissemination of a sex act or intimate parts when the person:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

- knowingly discloses or disseminates an image of another person;
- the person in the image is identifiable from the image itself or information displayed in connection with the image and the person is engaged in a sexual act or whose intimate parts are exposed;
- the person disclosing the image obtained it under circumstances in which a reasonable person would know or understand that the image was to remain private; and
- the person disclosing the image knows or should have known that the depicted person has not consented to the disclosure or dissemination.

Criminal invasion of privacy via nonconsensual disclosure of a sexual act or intimate parts is a class C felony.

The following entities are not liable as a result of content provided by another person:

- an interactive computer service;
- a provider of public or private mobile service; or
- a telecommunications network or broadband provider.

Civil Cause of Action.

A private right of action is created against a person who:

- knowingly distributes by means of a photograph, film, videotape, recording, or other reproduction of another without the other's consent;
- knew that the other person had a reasonable expectation that the material would remain private;
- the distributed material exposes an intimate part of the other person or shows the other person engaging in a sexual act; and
- the other person suffers general or special damages.

There is no liability for persons disclosing material in these circumstances:

- images involving voluntary exposure in public or commercial settings; or
- disclosure made in the public interest.

The following remedies are available in the civil action:

- equitable relief, including a temporary restraining order or preliminary injunction;
- actual damages; and
- attorneys' fees and costs.

Appropriation: None.

Fiscal Note: Requested on February 4, 2015.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.