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State of Minnesota
HOUSE OF REPRESENTATIVES

SPECIAL SESSION

H. F. No. 18

06/12/2015 Authored by Lesch, Lillie, Gruenhagen, Lien, Johnson, S., and others
The bill was read for the first time

1.1 A bill for an act
1.2 relating to public safety; establishing penalties for the unauthorized disclosure of
1.3 certain intimate images; clarifying the law of criminal defamation; establishing
1.4 penalties for using another's identity to solicit sex; amending Minnesota Statutes
1.5 2014, section 609.765; proposing coding for new law in Minnesota Statutes,
1.6 chapters 609; 617.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. [609.5271] USE OF THE IDENTITY OF ANOTHER TO SOLICIT
1.9 SEXUAL CONTACT OR PENETRATION.

1.10 (a) A person may not use the identity of an individual, without consent, to invite,
1.11 encourage, or solicit another to participate in sexual contact or penetration with the
1.12 individual.

1.13 (b) A person who violates paragraph (a) is guilty of a felony.

1.14 (c) As used in this section, "identity" has the meaning provided in section 609.527,
1.15 subdivision 1, paragraph (d).

1.16 Sec. 2. Minnesota Statutes 2014, section 609.765, is amended to read:

1.17 **609.765 CRIMINAL DEFAMATION.**

1.18 Subdivision 1. **Definition.** Defamatory matter is anything which exposes a person
1.19 or a group, class or association to hatred, contempt, ridicule, degradation or disgrace in
1.20 society, or injury to business or occupation.

1.21 Subd. 2. **Acts constituting.** Whoever with knowledge of its false and defamatory
1.22 character orally, in writing or by any other means, communicates any false and defamatory
1.23 matter to a third person without the consent of the person defamed is guilty of criminal

2.1 defamation and may be sentenced to imprisonment for not more than one year or to
 2.2 payment of a fine of not more than \$3,000, or both.

2.3 Subd. 3. **Justification.** Violation of subdivision 2 is justified if:

2.4 ~~(1) the defamatory matter is true and is communicated with good motives and for~~
 2.5 ~~justifiable ends; or~~

2.6 ~~(2) (1) the communication is absolutely privileged; or~~

2.7 ~~(3) (2) the communication consists of fair comment made in good faith with respect~~
 2.8 ~~to persons participating in matters of public concern; or~~

2.9 ~~(4) (3) the communication consists of a fair and true report or a fair summary of any~~
 2.10 ~~judicial, legislative or other public or official proceedings; or~~

2.11 ~~(5) (4) the communication is between persons each having an interest or duty with~~
 2.12 ~~respect to the subject matter of the communication and is made with intent to further~~
 2.13 ~~such interest or duty.~~

2.14 Subd. 4. **Testimony required.** No person shall be convicted on the basis of an oral
 2.15 communication of defamatory matter except upon the testimony of at least two other
 2.16 persons that they heard and understood the oral statement as defamatory or upon a plea
 2.17 of guilty.

2.18 Sec. 3. **[617.261] NONCONSENSUAL DISSEMINATION OF PRIVATE**
 2.19 **SEXUAL IMAGES.**

2.20 Subdivision 1. **Crime.** Whoever does the following is guilty of a felony:

2.21 (1) intentionally disseminate an image of another person:

2.22 (i) who is at least 18 years of age;

2.23 (ii) who is identifiable from the image itself or information displayed in connection
 2.24 with the image; and

2.25 (iii) who is engaged in a sexual act or whose intimate parts are exposed, in whole
 2.26 or in part;

2.27 (2) obtains the image under circumstances in which a reasonable person would know
 2.28 or understand that the image was to remain private; and

2.29 (3) knows or should have known that the person in the image has not consented to
 2.30 the dissemination.

2.31 Subd. 2. **Exceptions.** The following activities are exempt from the provisions
 2.32 of this section:

2.33 (1) the intentional dissemination of the image of another identifiable person who is
 2.34 engaged in a sexual act or whose intimate parts are exposed when the dissemination is
 2.35 made for the purpose of a criminal investigation that is otherwise lawful;

3.1 (2) the intentional dissemination of an image of another identifiable person who is
3.2 engaged in a sexual act or whose intimate parts are exposed when the dissemination is for
3.3 the purpose of, or in connection with, the reporting of unlawful conduct;

3.4 (3) the intentional dissemination of an image of another identifiable person who is
3.5 engaged in a sexual act or whose intimate parts are exposed when the image involves
3.6 voluntary exposure in a public or commercial setting; and

3.7 (4) the intentional dissemination of an image of another identifiable person who is
3.8 engaged in a sexual act or whose intimate parts are exposed when the dissemination
3.9 serves a lawful public purpose.

3.10 Subd. 3. **Immunity.** Nothing in this section shall be construed to impose liability
3.11 upon the following entities solely as a result of content or information provided by
3.12 another person:

3.13 (1) an interactive computer service, as defined in United States Code, title 47,
3.14 section 230, paragraph (f), clause (2);

3.15 (2) a provider of public mobile services or private radio services; or

3.16 (3) a telecommunications network or broadband provider.

3.17 Subd. 4. **Definitions.** (a) For purposes of this section, the following terms have
3.18 the meanings given.

3.19 (b) "Image" includes a photograph, film, videotape, digital recording, or other
3.20 depiction or portrayal of an object, including a human body.

3.21 (c) "Intimate parts" means the fully unclothed, partially unclothed, or transparently
3.22 clothed genitals, pubic area, anus, or if the person is female, a partially or fully exposed
3.23 nipple, including exposure through transparent clothing.

3.24 (d) "Sexual act" means either sexual contact or sexual penetration.

3.25 (e) "Sexual contact" has the meaning provided in section 609.341, subdivision 11.

3.26 (f) "Sexual penetration" has the meaning provided in section 609.341, subdivision 12.