

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

As Engrossed: S2/17/15

A Bill

SENATE BILL 156

5 By: Senator Hester
6 By: Representatives House, Wright
7

For An Act To Be Entitled

10 AN ACT TO CRIMINALIZE THE DISTRIBUTION OF AN IMAGE,
11 *PICTURE, VIDEO, OR VOICE OR AUDIO RECORDING OF A*
12 *SEXUAL NATURE TO HARASS, FRIGHTEN, INTIMIDATE,*
13 *THREATEN, OR ABUSE A FAMILY OR HOUSEHOLD MEMBER OR A*
14 *PERSON IN A CURRENT OR FORMER DATING RELATIONSHIP;*
15 *AND FOR OTHER PURPOSES.*
16
17

Subtitle

18
19 TO CRIMINALIZE THE DISTRIBUTION OF IMAGES
20 *OR RECORDINGS OF A SEXUAL NATURE TO*
21 *HARASS, FRIGHTEN, INTIMIDATE, THREATEN,*
22 *OR ABUSE A FAMILY OR HOUSEHOLD MEMBER OR*
23 *PERSON FROM A DATING RELATIONSHIP.*
24
25

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
27

28 *SECTION 1. Arkansas Code § 5-26-302 is amended to read as follows:*
29 *5-26-302. Definitions.*

30 *As used in this subchapter:*

31 *(1)(A) "Dating relationship" means a romantic or intimate social*
32 *relationship between two (2) individuals that is determined by examining the*
33 *following factors:*

34 *(i) The length of the relationship;*

35 *(ii) The type of the relationship; and*

36 *(iii) The frequency of interaction between the two*



1 (2) individuals involved in the relationship.

2 (B) "Dating relationship" does not include a casual
3 relationship or ordinary fraternization between two (2) individuals in a
4 business or social context; ~~and~~

5 (2) "Family or household member" means:

6 (A) A spouse;

7 (B) A former spouse;

8 (C) A parent;

9 (D) A child, including any minor residing in the household;

10 (E)(i) Persons related by blood within the fourth degree of
11 consanguinity.

12 (ii) The degree of consanguinity is computed pursuant
13 to § 28-9-212;

14 (F) Persons who presently or in the past have resided or
15 cohabited together;

16 (G) Persons who have or have had a child in common; or

17 (H) Persons who are presently or in the past have been in a
18 dating relationship together;

19 (3) "Harass" means an act of harassment as prohibited by § 5-71-
20 208;

21 (4) "Intimidate" means to force into or deter from an action by
22 inducing fear;

23 (5) "Sexual nature" means that an image, picture, video, or
24 voice or audio recording depicts actual or simulated:

25 (A) Sexual intercourse;

26 (B) Deviate sexual activity;

27 (C) Bestiality;

28 (D) Masturbation;

29 (E) Sadomasochistic abuse for the purpose of sexual
30 stimulation; or

31 (F) Lewd exhibition of the:

32 (i) Genitals or pubic area of any person; or

33 (ii) Breast of a female; and

34 (6) "State of nudity" means:

35 (A) The appearance of a human anus, human genitals, or a
36 female breast below a point immediately above the top of the areola; or

1 (B) A state of dress that fails to opaquely cover a human
2 anus, human genitals, or a female breast below a point immediately above the
3 top of the areola.

4
5 SECTION 2. Arkansas Code Title 5, Chapter 26, Subchapter 3, is amended
6 to add an additional section to read as follows:

7 5-26-314. Unlawful distribution of sexual images or recordings.

8 (a) A person commits the offense of unlawful distribution of sexual
9 images or recordings if, being eighteen (18) years of age or older, with the
10 purpose to harass, frighten, intimidate, threaten, or abuse another person,
11 the actor distributes an image, picture, video, or voice or audio recording
12 of the other person to a third person by any means if the image, picture,
13 video, or voice or audio recording:

14 (1) Is of a sexual nature or depicts the other person in a state
15 of nudity; and

16 (2) The other person is a family or household member of the
17 actor or another person with whom the actor is in a current or former dating
18 relationship.

19 (b) The fact that an image, picture, video, or voice or audio
20 recording was created with the knowledge or consent of the other person or
21 that the image, picture, video, or voice or audio recording is the property
22 of a person charged under this section is not a defense to prosecution under
23 this section.

24 (c) Unlawful distribution of sexual images or recordings is a Class A
25 misdemeanor.

26 (d)(1) Upon the pretrial release of a person charged under this
27 section, the court shall enter an order consistent with Rules 9.3 and 9.4 of
28 the Arkansas Rules of Criminal Procedure and shall give notice to the person
29 charged under this section of the penalties contained in Rule 9.5 of the
30 Arkansas Rules of Criminal Procedure.

31 (2) An order under subdivision (d)(1) of this section remains in
32 effect during the pendency of any appeal of a conviction under this section.

33
34 /s/Hester

35
36 APPROVED: 03/04/2015