

**Pending  
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

**Senate Bill No. 2288**

**BY: Committee**

**Amend by striking all after the enacting clause and inserting  
in lieu thereof the following:**

15        SECTION 1. (1) For the purposes of this section, the  
16 following words shall have the meaning herein ascribed unless the  
17 context clearly requires otherwise:

18               (a) "Audio" means the transmission, reception or  
19 reproduction of sound.

20               (b) "Digitization" means to alter an image or audio in  
21 a realistic manner utilizing images or audio of a person, other  
22 than the person depicted, or utilizing computer-generated images  
23 or audio. "Digitization" includes the creation of an image or  
24 audio through the use of software, machine learning, artificial



25 intelligence or any other computer-generated or technological  
26 means.

27 (c) "Disseminate" means to give, provide, lend,  
28 deliver, mail, send, forward, transfer or transmit, electronically  
29 or otherwise to another person.

30 (d) "Intimate part" means the naked genitals, pubic  
31 area, anus or female nipple of the person.

32 (e) "Image" means a still image or a video image with  
33 or without audio.

34 (f) "Publish" means to:

35 (i) Disseminate, as defined in paragraph (b) of  
36 this subsection, with the intent that such image or images be  
37 disseminated to ten (10) or more persons;

38 (ii) Disseminate with the intent that such images  
39 be sold by another person;

40 (iii) Post, present, display, exhibit, circulate,  
41 advertise or allows access, electronically or otherwise, so as to  
42 make an image or images available to the public; or

43 (iv) Disseminate with the intent that an image or  
44 images be posted, presented, displayed, exhibited, circulated,  
45 advertised or made accessible, electronically or otherwise and to  
46 make such image or images available to the public.

47 (g) "Sexual conduct" means sexual intercourse, oral  
48 sexual conduct, anal sexual conduct, or sexual contact.



49           (h) "Sexual contact" means any touching of the sexual  
50 or other intimate parts of a person for the purpose of gratifying  
51 sexual desire of either party. It includes the touching of the  
52 actor by the victim, as well as the touching of the victim by the  
53 actor, whether directly or through clothing, as well as the  
54 emission of ejaculate by the actor upon any part of the victim,  
55 clothed or unclothed.

56           (2) A person is guilty of unlawful dissemination or  
57 publication of an intimate image or audio created or altered by  
58 digitization when:

59           (a) With intent to cause harm to the emotional,  
60 financial or physical welfare of another person, he or she  
61 intentionally disseminates or publishes an image or audio created  
62 or altered by digitization depicting such other person with one or  
63 more intimate parts exposed or engaging in sexual conduct with  
64 another person, where such person may reasonably be identified  
65 from the image or audio itself or from information displayed in  
66 connection with the image or audio; and

67           (b) He or she knew or reasonably should have known that  
68 the person depicted did not consent to such dissemination or  
69 publication, including the dissemination or publication of an  
70 image or audio recording taken with the consent of the person  
71 depicted when such person had a reasonable expectation that the  
72 image or audio recording taken would remain private, regardless of



73 whether the actor was present when such image or audio recording  
74 was taken.

75 (3) (a) Except as provided in paragraph (c) of this  
76 subsection, a person convicted of an offense under subsection (2)  
77 of this section who was over the age of twenty-one (21) at the  
78 time of the offense shall be guilty of a felony and, upon  
79 conviction, shall be punished as provided in Section 97-29-63 for  
80 the offense of photographing or filming another without permission  
81 where there is an expectation of privacy.

82 (b) Except as provided in paragraph (c) of this  
83 subsection, a person convicted of an offense under subsection (2)  
84 of this section who was under the age of twenty-one (21) at the  
85 time of the offense shall be guilty of a misdemeanor and, upon  
86 conviction, shall be punished by a fine of not more than Two  
87 Thousand Five Hundred Dollars (\$2,500.00) or by imprisonment for  
88 not more than one (1) year, or both.

89 (c) Any person who is convicted under subsection (2) of  
90 this section of a second or subsequent offense which arises from a  
91 separate nucleus of operative fact, at least thirty (30) days  
92 after the previous offense, shall be guilty of a felony and shall  
93 be punished by up to twice the penalty provided by this  
94 subsection.

95 (4) A person is guilty of unlawful dissemination or  
96 publication of an image or audio created or altered by  
97 digitization when:



98           (a) With intent to cause harm to the emotional,  
99 financial or physical welfare of another person, he or she  
100 intentionally disseminates or publishes an image or audio created  
101 or altered by digitization depicting such other person where such  
102 person may reasonably be identified from the image or audio itself  
103 or from information displayed in connection with the image; and

104           (b) The actor knew or reasonably should have known that  
105 the person depicted did not consent to such dissemination or  
106 publication.

107           (5) A person convicted of an offense under subsection (4) of  
108 this section shall be guilty of a misdemeanor and, upon  
109 conviction, shall be punished by a fine of not more than Two  
110 Thousand Five Hundred Dollars (\$2,500.00) or by imprisonment for  
111 not more than one (1) year, or both.

112           (6) This section shall not apply to the following:

113           (a) The reporting of unlawful conduct;

114           (b) Dissemination or publication of an intimate image,  
115 image or audio made during lawful and common practices of law  
116 enforcement, legal proceedings or medical treatment;

117           (c) An intimate image, image or audio involving  
118 voluntary exposure in a public or commercial setting;

119           (d) Dissemination or publication of an intimate image,  
120 image or audio made for a legitimate public purpose; or

121           (e) An internet service provider, or its affiliates or  
122 subsidiaries, search engine, or cloud service provider solely for



123 providing access or connection to or from a website or other  
124 information or content on the internet or a facility, system, or  
125 network not under the control of that provider, including  
126 transmission, downloading, intermediate storage, access software,  
127 or other related capabilities.

128 (7) (a) This section shall not apply to an image or audio,  
129 other than intimate images, where the image or audio is  
130 disseminated or published for the purpose of parody and includes a  
131 disclosure stating: "This \_\_\_\_\_ is a parody."

132 (b) The blank in the disclosure required by paragraph  
133 (a) shall be filled with whichever of the following terms most  
134 accurately describes the media:

135 (i) Image; or

136 (ii) Audio.

137 (c) (i) For visual media, the text of the disclosure  
138 shall appear in a size that is easily readable by the average  
139 viewer and no smaller than the largest font size of other text  
140 appearing in the visual media. If the visual media does not  
141 include any other text, the disclosure shall appear in a size that  
142 is easily readable by the average viewer. For visual media that  
143 is video, the disclosure shall appear for the duration of the  
144 video.

145 (ii) If the media consists of audio only, the  
146 disclosure shall be read in a clearly spoken manner and in a pitch  
147 that can be easily heard by the average listener, at the beginning



148 of the audio, at the end of the audio, and, if the audio is  
149 greater than two minutes in length, interspersed within the audio  
150 at intervals of not greater than two minutes each.

151 **SECTION 2.** This act shall take effect and be in force from  
152 and after July 1, 2024, and shall stand repealed on June 30, 2024.

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

1 AN ACT TO CRIMINALIZE THE UNLAWFUL DISSEMINATION OR  
2 PUBLICATION OF AN INTIMATE OR NONINTIMATE IMAGE OR AUDIO CREATED  
3 OR ALTERED BY DIGITIZATION WHERE THE IMAGE OR AUDIO IS  
4 DISSEMINATED OR PUBLISHED WITH INTENT TO CAUSE HARM TO THE  
5 EMOTIONAL, FINANCIAL OR PHYSICAL WELFARE OF ANOTHER PERSON AND THE  
6 ACTOR KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE PERSON  
7 DEPICTED DID NOT CONSENT TO SUCH DISSEMINATION OR PUBLICATION; TO  
8 DEFINE TERMS; TO PROVIDE THAT THE CRIMES INCLUDE THE USE OF IMAGES  
9 OR AUDIO CREATED OR ALTERED BY DIGITIZATION, WHERE SUCH PERSON MAY  
10 REASONABLY BE IDENTIFIED FROM THE IMAGE OR AUDIO ITSELF OR FROM  
11 INFORMATION DISPLAYED IN CONNECTION WITH THE IMAGE OR AUDIO; TO  
12 PROVIDE CRIMINAL PENALTIES; TO PROVIDE CERTAIN EXCEPTIONS TO THE  
13 CRIME; AND FOR RELATED PURPOSES.

