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As of: March 30, 2016 (2:31pm)

LC1j02

**** Bill No. ****

Introduced By *****

By Request of the *****

A Bill for an Act entitled: "An Act providing for the crime of unlawful distribution of sexual images and recordings regarding the distribution of photographs of a sexual nature where the person depicted has a reasonable expectation of privacy--- ORIGINAL DRAFT."

Be it enacted by the Legislature of the State of Montana:

NEW SECTION. **Section 1. Unlawful Distribution of Sexual Images or Recordings.** (1) A person commits the offense of unlawful distribution of sexual images or recordings if that person purposefully or knowingly distributes or disseminates any visual or print medium, including a medium by use of electronic communication, of another person who is:

(a) identifiable from the visual medium, as defined in 45-5-625, or print medium itself or information displayed in connection with the image;

(b) engaged in sexual conduct, actual or simulated, as defined in 45-5-625, or whose intimate parts are exposed; and

(2) Knows or consciously disregarded a substantial and unjustified risk that the depicted person has not consented to such a disclosure. The person depicted has a reasonable expectation of privacy. Evidence that a person has sent this

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visual or print medium to another person using an electronic device does not, on its own, remove the person depicted's reasonable expectation of privacy for that medium.

(3) This section does not apply to:

(a) Any disclosure made with the consent of the person who is depicted in the image;

(b) Lawful and common practices of law enforcement regarding criminal reporting, investigation of unlawful activity when permitted or required by law, or regarding medical treatment;

(c) The reporting of unlawful conduct;

(d) Lawful and common practices necessary for medical treatment; and

(e) Images involving voluntary exposure in a public or commercial setting.

(5) A person convicted of an offense under this section shall be fined an amount not to exceed \$500 or be incarcerated in the county jail for a term not to exceed 6 months, or both. Upon a second conviction, a person shall be fined an amount not to exceed \$1,000 or be incarcerated for a term not to exceed 1 year, or both. Upon a third or subsequent conviction, a person shall be fined an amount not to exceed \$10,000 or be incarcerated for a term not to exceed 5 years, or both.

(6) An individual whose private intimate parts or sexual conduct has been posted in accordance with this section may bring a civil action against the person who caused the posting, and is entitled to injunctive relief, the greater of \$10,000 or actual

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damages incurred as a result of the posting of the private images, punitive damages and reasonable attorney's fees and costs.

- END -

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