

**Unofficial Draft Copy**

As of: March 30, 2016 (2:06pm)

LC1j2a

\*\*\*\* Bill No. \*\*\*\*

Introduced By \*\*\*\*\*

By Request of the \*\*\*\*\*

A Bill for an Act entitled: "An Act providing 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."

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 and the person depicted has a reasonable expectation of privacy.

(3) This section does not apply to:

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

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