



**Fiscal Note**  
**Legislative Council Staff**  
Nonpartisan Services for Colorado’s Legislature

**SB 25-288: INTIMATE DIGITAL DEPICTIONS CRIM & CIVIL ACTIONS**

**Prime Sponsors:**  
Sen. Rodriguez

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**Fiscal note status:** The fiscal note reflects the introduced bill.

**Summary Information**

**Overview.** The bill creates a civil right of action for intimate digital depictions and updates crimes around exploitation of a child and posting a private image.

**Types of impacts.** The bill is projected to affect the following areas on an ongoing basis:

- Minimal State Revenue
- Minimal State Workload
- Local Government

**Appropriations.** No appropriation is required.

**Table 1**  
**State Fiscal Impacts**

Type of Impact	Budget Year FY 2025-26	Out Year FY 2026-27
State Revenue	\$0	\$0
State Expenditures	\$0	\$0
Transferred Funds	\$0	\$0
Change in TABOR Refunds	\$0	\$0
Change in State FTE	0.0 FTE	0.0 FTE

## Summary of Legislation

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The bill creates a civil right of action for intimate digital depictions and updates crimes around exploitation of a child and posting a private image, as described below.

### Civil Right of Action

The bill allows an individual depicted in an intimate image who has suffered harm from the disclosure or threatened disclosure to sue the individual who disclosed or threatened to disclose the picture if they individual knew or acted with reckless disregard for whether the depicted individual:

- did not consent to the disclosure;
- would experience severe emotional distress; and
- was identifiable.

The bill outlines what is required to establish consent, what cannot constitute a defense, who can bring a case if the depicted person is less than 18 years of age, exceptions to liability, establishing plaintiff privacy, and outlining remedies.

### Updates to crimes

The bill updates several crimes as described below.

#### Sexual Exploitation of a Child

The bill eliminates the requirement for prosecutors to establish the identity of the alleged victim when bringing a case for sexual exploitation of a child. It expands the definition of sexually exploitative material under this crime to include realistic visual depiction by a computer. It also establishes that it is not a defense that the defendant lacked knowledge of whether a realistic visual depiction was created by digitization or computer-generated means.

#### Posting an Intimate Image for Harassment or Pecuniary Gain

Under current law, posting a private image for harassment or pecuniary gain is a class 1 misdemeanor when a person intends to harass, intimidate, coerce, or obtain pecuniary benefit from a person by posting the image, without their consent or when the person should have known the depicted person wanted the image to remain private, and the conduct results in serious emotional distress.

Under the bill, it is a class 1 misdemeanor when a person intends to harass, intimidate, coerce, or obtain pecuniary benefit from a person by disclosing the image without their consent, and the actor knew or reasonably should have known the disclosure would cause physical, emotional, reputational, or, for pecuniary gain, financial harm. It also expands these images to include computer-generated images. It is a class 6 felony if the disclosure affected the conduct of an administrative, legislative, or judicial proceeding of a government agency or posed an imminent and serious threat to the depicted person's or their family's immediate safety and the person

knew or reasonably should have known of the imminent and serious threat. The bill also establishes exceptions to liability and outlines that the crime does not apply if the disclosure was made in good faith to law enforcement while reporting a violation or to the court, a party, or a fact finder in a criminal proceeding.

## **Comparable Crime Analysis**

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Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or creates a new factual basis for an existing crime. The following section outlines crimes that are comparable to the offense in this bill and discusses assumptions on future rates of criminal convictions resulting from the bill.

### **Sexual Exploitation of a Child**

This bill creates a new factual basis for the existing offense of sexual exploitation of a child by applying computer-generated images to the crime. From FY 2021-22 to FY 2023-24, 930 persons have been convicted and sentenced for this offense. Of the persons convicted, 907 were male, 21 were female, and 2 did not have a gender identified. Demographically, 745 were White, 73 were Black/African American, 75 were Hispanic, 11 were Asian, 4 were American Indian, 21 were classified as "Other," and 1 did not have a race identified.

### **Posting an Intimate Picture for Harassment**

This bill creates a new factual basis for the existing offense of posting an intimate picture for harassment by changing what the conduct needs to cause to be considered a crime. From FY 2021-22 to FY 2023-24, 121 persons have been convicted and sentenced for this offense. Of the persons convicted, 100 were male, and 21 were female. Demographically, 89 were White, 18 were Black/African American, 8 were Hispanic, 1 were Asian, 1 were American Indian, and 4 were classified as "Other".

### **Posting an Intimate Picture for Pecuniary Gain**

This bill a new factual basis for the existing offense of posting an intimate picture for pecuniary gain by changing what the conduct needs to cause to be considered a crime. From FY 2021-22 to FY 2023-24, two white males have been convicted and sentenced for this offense.

### **Assumptions**

This analysis assumes that the changes to the above crimes are not going to significantly increase the number of criminal cases filed. In addition, due to the specific standards in the bill to bring a civil suit, the fiscal note assumes there will also be a minimal increase in civil cases under the bill. Visit [leg.colorado.gov/fiscalnotes](https://leg.colorado.gov/fiscalnotes) for more information about criminal justice costs in fiscal notes.

## State Revenue and Expenditures

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Based on the assumptions above, this analysis assumes that there will be a minimal impact on state revenue and expenditures. Under the bill, criminal fines and civil filing fees, which are subject to TABOR, may increase by a minimal amount. Similarly, any increase in workload and costs for the Judicial Department, including the trial courts, Division of Probation, and agencies that provide representation to indigent persons, and to the Department of Corrections, is assumed to be minimal and no change in appropriations is required.

## Local Government

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Similar to the state, it is expected that any workload or cost increase for district attorneys to prosecute more offenses, or for county jails to imprison more individuals under the bill will be minimal. District attorney offices and county jails are funded by counties.

## Effective Date

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The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed, with the changes to the criminal offenses applying to offenses committed or after the effective date.

## State and Local Government Contacts

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Corrections

Judicial

District Attorneys

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The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the [General Assembly website](#).