

**First Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 25-0709.02 Anna Petrini x5497

SENATE BILL 25-288

SENATE SPONSORSHIP

Rodriguez,

HOUSE SPONSORSHIP

(None),

Senate Committees

Judiciary

House Committees

A BILL FOR AN ACT

101 **CONCERNING PREVENTING CERTAIN DISCLOSURES OF INTIMATE**
102 **DEPICTIONS, AND, IN CONNECTION THEREWITH, CREATING A**
103 **CAUSE OF ACTION FOR NONCONSENSUAL DISCLOSURE OF AN**
104 **INTIMATE DIGITAL DEPICTION AND ADDING AND AMENDING**
105 **RELATED PROVISIONS IN CRIMINAL LAW.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill creates a cause of action against a person who discloses or threatens to disclose a realistic visual depiction of another individual

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

(depicted individual) that has been created, altered, or produced by generative AI, image editing software, or computer-generated means (intimate digital depiction). A depicted individual who has suffered harm from the nonconsensual disclosure or threatened disclosure of an intimate digital depiction has a cause of action against the person who disclosed or threatened to disclose the intimate digital depiction if the person knew or acted with reckless disregard for whether the depicted individual:

- Did not consent to the disclosure;
- Would experience severe emotional distress due to the disclosure or threatened disclosure; and
- Was identifiable.

The bill provides an exception to civil liability if the disclosure is made in good faith under various circumstances or is related to a matter of public concern.

A successful plaintiff may recover the defendant's monetary gain from the intimate digital depiction; either actual damages or liquidated damages of \$150,000; exemplary damages; and litigation costs, including reasonable attorney fees. A court may also order the defendant to cease disclosure of the intimate digital depiction.

The bill updates the definition of "sexually exploitative material" in the context of the criminal law punishing sexual exploitation of a child to include realistic computer-generated digital depictions that are obscene.

The bill changes the criminal offenses of posting a private image for harassment and posting a private image for pecuniary gain to the related offenses of disclosing a private intimate image or intimate digital depiction for the same purposes. A person commits disclosure of a private intimate image or intimate digital depiction for harassment or for pecuniary gain if the person discloses or threatens to disclose a private intimate image or intimate digital depiction without consent:

- With the intent to harass, intimidate, or coerce the depicted individual, or with the intent to obtain a pecuniary benefit; or
- Knowing, or under circumstances when the person reasonably should have known, that the disclosure or threatened disclosure would cause physical, emotional, reputational, or economic harm to the depicted individual.

Disclosing a private intimate image or intimate digital depiction is a class 1 misdemeanor; except that it is a class 6 felony if the person made the disclosure and the disclosure:

- Affected the conduct of an administrative, legislative, or judicial proceeding of a governmental agency, including the administration of an election; or
- Posed an imminent and serious threat to the safety of the depicted individual or the depicted individual's immediate

family and the person knew or reasonably should have known of the imminent and serious threat.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** part 15 to article 21 of title 13 as follows:

PART 15

PREVENTING UNAUTHORIZED DISCLOSURE
OF INTIMATE DIGITAL DEPICTIONS ACT

13-21-1501. Short title. THE SHORT TITLE OF THIS PART 15 IS THE "PREVENTING UNAUTHORIZED DISCLOSURE OF INTIMATE DIGITAL DEPICTIONS ACT".

13-21-1502. Definitions. AS USED IN THIS PART 15, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "BROADCASTER" MEANS AN ENTITY THAT OPERATES A LICENSED AM, FM, OR TELEVISION BROADCAST FACILITY UNDER THE JURISDICTION OF THE FEDERAL COMMUNICATIONS COMMISSION, INCLUDING A DIGITAL PLATFORM OWNED AND OPERATED BY THE ENTITY.

(2) "COMPUTER-GENERATED" MEANS CREATED, DEVELOPED, MADE, OR PRODUCED BY DIGITAL SOFTWARE, INCLUDING, BUT NOT LIMITED TO, PHONE APPLICATIONS AND IMAGE EDITING SOFTWARE.

(3) "CONSENT" MEANS AFFIRMATIVE, CONSCIOUS, AND VOLUNTARY AUTHORIZATION BY A DEPICTED INDIVIDUAL;

(4) "DEPICTED INDIVIDUAL" MEANS AN INDIVIDUAL WHO, BY DIGITAL OR COMPUTER-GENERATED MEANS, APPEARS IN WHOLE OR IN PART IN AN INTIMATE DIGITAL DEPICTION AND WHO IS IDENTIFIABLE BY VIRTUE OF THE INDIVIDUAL'S FACE, LIKENESS, OR OTHER DISTINGUISHING CHARACTERISTIC, INCLUDING A UNIQUE BIRTHMARK OR OTHER

1 RECOGNIZABLE FEATURE, OR FROM INFORMATION ANOTHER PERSON
2 DISPLAYS IN CONNECTION WITH THE DIGITAL DEPICTION.

3 (5) "DIGITAL DEPICTION" MEANS A REALISTIC VISUAL DEPICTION
4 OF A DEPICTED INDIVIDUAL THAT HAS BEEN CREATED, ALTERED, OR
5 PRODUCED BY GENERATIVE AI, IMAGE EDITING SOFTWARE, OR
6 COMPUTER-GENERATED MEANS. "DIGITAL DEPICTION" INCLUDES STORED
7 DATA THAT IS CAPABLE OF CONVERSION INTO A VISUAL IMAGE. "DIGITAL
8 DEPICTION" DOES NOT INCLUDE AN IMAGE OF THE DEPICTED INDIVIDUAL
9 CONTEMPORANEOUSLY CAPTURED BY FILM, VIDEO, CAMERA, OR DIGITAL
10 MEANS WITHOUT FURTHER EDITING, CHANGES, ALTERATIONS, OR
11 ADDITIONS OF AN INTIMATE PART OR EXPLICIT SEXUAL CONDUCT NOT
12 OTHERWISE FOUND IN THE ORIGINAL IMAGE OR CAPTURED AT THE TIME OF
13 THE ORIGINAL IMAGE.

14 (6) "DISCLOSE" MEANS TO TRANSFER, PUBLISH, DISTRIBUTE, OR
15 MAKE ACCESSIBLE.

16 (7) "EXPLICIT SEXUAL CONDUCT" MEANS SEXUAL INTERCOURSE,
17 SEXUAL INTRUSION, EROTIC FONDLING, EROTIC NUDITY, MASTURBATION,
18 SADOMASOCHISM, OR SEXUAL EXCITEMENT.

19 (8) "GENERATIVE AI" MEANS A SUBSET OF ARTIFICIAL
20 INTELLIGENCE THAT INVOLVES USING ALGORITHMS AND MODELS TO
21 GENERATE OR CREATE NEW AND ORIGINAL CONTENT.

22 (9) "IMAGE EDITING SOFTWARE" MEANS A COMPUTER PROGRAM
23 THAT ALLOWS EDITING, MODIFICATION, OR ALTERATION OF AN IMAGE OR
24 VIDEO.

25 (10) "INTIMATE DIGITAL DEPICTION" MEANS A DIGITAL DEPICTION
26 THAT DEPICTS:

27 (a) THE INTIMATE PARTS OF A DEPICTED INDIVIDUAL;

1 (b) SEXUAL CONTACT INVOLVING A DEPICTED INDIVIDUAL; OR

2 (c) A DEPICTED INDIVIDUAL ENGAGING IN EXPLICIT SEXUAL
3 CONDUCT.

4 (11) "INTIMATE PARTS" MEANS THE EXTERNAL GENITALIA OR THE
5 PERINEUM OR THE ANUS OR THE BUTTOCKS OR THE PUBES OR THE BREAST
6 OF A PERSON.

7 (12) "RECKLESS DISREGARD" MEANS CONSCIOUSLY DISREGARDING
8 A SUBSTANTIAL AND UNJUSTIFIABLE RISK THAT A RESULT WILL OCCUR OR
9 THAT A CIRCUMSTANCE EXISTS. "RECKLESS DISREGARD" INCLUDES, BUT
10 IS NOT LIMITED TO, CIRCUMSTANCES WHEN A PERSON IS PLACED ON
11 NOTICE, EITHER IMPLICITLY OR EXPLICITLY, THAT THE DISCLOSURE WOULD
12 CAUSE REPUTATIONAL, EMOTIONAL, FINANCIAL, OR PHYSICAL HARM TO
13 THE DEPICTED INDIVIDUAL.

14 (13) "SEXUAL CONTACT" MEANS:

15 (a) THE TOUCHING OF A DEPICTED INDIVIDUAL'S INTIMATE PARTS
16 BY ANOTHER PERSON, OR OF ANOTHER PERSON'S INTIMATE PARTS BY THE
17 DEPICTED INDIVIDUAL, OR THE TOUCHING OF THE CLOTHING COVERING THE
18 IMMEDIATE AREA OF THE DEPICTED INDIVIDUAL OR OTHER PERSON'S
19 INTIMATE PARTS IF THAT SEXUAL CONTACT IS FOR THE PURPOSES OF
20 SEXUAL AROUSAL, GRATIFICATION, OR ABUSE;

21 (b) THE EMISSION OR EJACULATION OF SEMINAL FLUID ONTO A
22 BODY PART OF THE DEPICTED INDIVIDUAL OR THE CLOTHING COVERING A
23 BODY PART OF THE DEPICTED INDIVIDUAL; OR

24 (c) CAUSING SEMEN, BLOOD, URINE, FECES, OR A BODILY
25 SUBSTANCE TO CONTACT A BODY PART OF THE DEPICTED INDIVIDUAL OR
26 THE CLOTHING COVERING A BODY PART OF THE DEPICTED INDIVIDUAL IF
27 THAT CONTACT WITH SEMEN, BLOOD, URINE, FECES, OR A BODILY

1 SUBSTANCE IS FOR THE PURPOSE OF SEXUAL AROUSAL, GRATIFICATION, OR
2 ABUSE.

3 (14) "VOLUNTARY AUTHORIZATION" MEANS AUTHORIZATION
4 PROVIDED IN THE ABSENCE OF FORCE, FRAUD, MISREPRESENTATION,
5 DURESS, OR COERCION.

6 **13-21-1503. Civil action - consent - disclaimers.** (1) EXCEPT AS
7 OTHERWISE PROVIDED IN SECTION 13-21-1504, A DEPICTED INDIVIDUAL
8 WHO IS THE SUBJECT OF AN INTIMATE DIGITAL DEPICTION THAT A PERSON
9 DISCLOSED OR THREATENED TO DISCLOSE WITHOUT THE DEPICTED
10 INDIVIDUAL'S CONSENT AND WHO HAS SUFFERED HARM FROM THE
11 DISCLOSURE OR THREATENED DISCLOSURE OF THE INTIMATE DIGITAL
12 DEPICTION HAS A CAUSE OF ACTION AGAINST THE PERSON WHO DISCLOSED
13 THE INTIMATE DIGITAL DEPICTION IF THE PERSON KNEW OR ACTED WITH
14 RECKLESS DISREGARD FOR WHETHER THE DEPICTED INDIVIDUAL:

15 (a) DID NOT CONSENT TO THE DISCLOSURE;

16 (b) WOULD EXPERIENCE SEVERE EMOTIONAL DISTRESS DUE TO THE
17 DISCLOSURE OR THREATENED DISCLOSURE; AND

18 (c) WAS IDENTIFIABLE.

19 (2) FOR PURPOSES OF AN ACTION BROUGHT PURSUANT TO
20 SUBSECTION (1) OF THIS SECTION:

21 (a) A DEPICTED INDIVIDUAL'S CONSENT TO THE CREATION OF THE
22 INTIMATE DIGITAL DEPICTION DOES NOT ESTABLISH THAT THE DEPICTED
23 INDIVIDUAL CONSENTED TO DISCLOSURE OF THE INTIMATE DIGITAL
24 DEPICTION;

25 (b) A DEPICTED INDIVIDUAL'S CONSENT IS NOT VALID UNLESS THE
26 CONSENT IS SET FORTH IN AN AGREEMENT THAT:

27 (I) IS WRITTEN IN PLAIN LANGUAGE;

1 (II) IS SIGNED KNOWINGLY AND VOLUNTARILY BY THE DEPICTED
2 INDIVIDUAL;

3 (III) INCLUDES A GENERAL DESCRIPTION OF THE INTIMATE DIGITAL
4 DEPICTION;

5 (IV) IDENTIFIES THE SPECIFIC USE OF THE INTIMATE DIGITAL
6 DEPICTION AGREED UPON BETWEEN THE PARTIES, INCLUDING THE
7 PLATFORMS OR LOCATIONS WHERE THE INTIMATE DIGITAL DEPICTION WILL
8 BE PUBLISHED OR OTHERWISE MADE AVAILABLE TO THIRD PARTIES, THE
9 TIME PERIOD DURING WHICH THE INTIMATE DIGITAL DEPICTION WILL BE
10 MADE AVAILABLE TO THIRD PARTIES, AND SECURITY FEATURES
11 CONTAINED WITHIN THE DIGITAL DEPICTION TO PREVENT THEFT OR
12 UNAUTHORIZED COPYING; AND

13 (V) IF APPLICABLE, INCLUDES A GENERAL DESCRIPTION OF THE
14 VISUAL WORK INTO WHICH THE INTIMATE DIGITAL DEPICTION IS
15 INCORPORATED, INCLUDING, BUT NOT LIMITED TO, A MOVIE, TELEVISION
16 SHOW, ARTWORK, PRODUCT, COMIC BOOK, COMPUTER APPLICATION,
17 VISUAL NOVEL, WEB SERIES, ONLINE AVATAR, DATING APPLICATION,
18 COMPUTER GAME, VIDEO GAME, OR CHATBOT; AND

19 (c) PREVIOUS CONSENSUAL DISCLOSURE OF THE INTIMATE DIGITAL
20 DEPICTION THAT IS THE SUBJECT OF THE ACTION DOES NOT, BY ITSELF,
21 ESTABLISH THAT THE DEPICTED INDIVIDUAL CONSENTED TO A SUBSEQUENT
22 DISCLOSURE OF THE INTIMATE DIGITAL DEPICTION.

23 (3) IT IS NOT A DEFENSE TO AN ACTION BROUGHT PURSUANT TO
24 THIS PART 15 THAT THERE IS A DISCLAIMER STATING THAT THE INTIMATE
25 DIGITAL DEPICTION OF THE DEPICTED INDIVIDUAL WAS UNAUTHORIZED OR
26 THAT THE DEPICTED INDIVIDUAL DID NOT PARTICIPATE IN THE CREATION
27 OR DEVELOPMENT OF THE INTIMATE DIGITAL DEPICTION.

1 (4) IN THE CASE OF A DEPICTED INDIVIDUAL WHO IS UNDER
2 EIGHTEEN YEARS OF AGE OR IS INCOMPETENT, INCAPACITATED, OR
3 DECEASED, THE LEGAL GUARDIAN OF THE DEPICTED INDIVIDUAL, ANOTHER
4 FAMILY MEMBER, A REPRESENTATIVE OF THE DEPICTED INDIVIDUAL'S
5 ESTATE, OR ANY OTHER PERSON APPOINTED AS SUITABLE BY THE COURT
6 MAY ASSUME THE DEPICTED INDIVIDUAL'S RIGHTS PURSUANT TO THIS PART
7 15; EXCEPT THAT A DEFENDANT AGAINST WHOM AN ACTION IS BROUGHT
8 PURSUANT TO THIS PART 15 SHALL NOT, IN ANY EVENT, ASSUME THE
9 DEPICTED INDIVIDUAL'S RIGHTS.

10 (5) THIS SECTION IS NOT THE EXCLUSIVE REMEDY FOR A
11 DISCLOSURE OR THREATENED DISCLOSURE OF AN INTIMATE DIGITAL
12 DEPICTION; A PLAINTIFF MAY ALSO BRING ANY OTHER AVAILABLE
13 COMMON LAW OR STATUTORY CLAIMS.

14 **13-21-1504. Exceptions to liability - construction.** (1) (a) A
15 PERSON IS NOT LIABLE UNDER THIS PART 15 IF THE PERSON PROVES THAT
16 DISCLOSURE OF, OR A THREAT TO DISCLOSE, THE INTIMATE DIGITAL
17 DEPICTION WAS:

18 (I) MADE IN GOOD FAITH:

19 (A) TO LAW ENFORCEMENT; OR

20 (B) IN A LEGAL PROCEEDING; ==

21 ==

22 (II) MADE IN GOOD FAITH IN THE REPORTING OR INVESTIGATION
23 OF:

24 (A) UNLAWFUL CONDUCT; OR

25 (B) UNSOLICITED AND UNWELCOME CONDUCT;

26 (III) RELATED TO A MATTER OF PUBLIC CONCERN OR PUBLIC
27 INTEREST; OR

1 (IV) REASONABLY INTENDED TO ASSIST THE DEPICTED
2 INDIVIDUAL.

3 (b) NOTWITHSTANDING THE EXCEPTIONS IN SUBSECTION (1)(a) OF
4 THIS SECTION, A CLAIM OF GOOD FAITH DOES NOT LIMIT LIABILITY FOR A
5 DEFENDANT WHO CREATED, DEVELOPED, OR OTHERWISE MADE THE
6 INTIMATE DIGITAL DEPICTION.

7 (2) IF A DEFENDANT ASSERTS AN EXCEPTION TO LIABILITY
8 PURSUANT TO THIS SECTION, THE EXCEPTION DOES NOT APPLY IF THE
9 PLAINTIFF PROVES BY A PREPONDERANCE OF THE EVIDENCE THAT THE
10 DISCLOSURE WAS:

11 (a) PROHIBITED BY LAW OTHER THAN THIS PART 15; OR

12 (b) MADE, POSSESSED, OR DISTRIBUTED FOR THE PURPOSES OF
13 SEXUAL AROUSAL, SEXUAL GRATIFICATION, HUMILIATION, DEGRADATION,
14 OR MONETARY OR COMMERCIAL GAIN.

15 (3) DISCLOSURE OF, OR A THREAT TO DISCLOSE, AN INTIMATE
16 DIGITAL DEPICTION IS NOT A MATTER OF PUBLIC CONCERN OR PUBLIC
17 INTEREST SOLELY BECAUSE THE DEPICTED INDIVIDUAL IS A PUBLIC FIGURE.

18 (4) NOTHING IN THIS SECTION IMPOSES LIABILITY ON THE
19 PROVIDER OF AN INTERACTIVE COMPUTER SERVICE, AS DEFINED IN 47
20 U.S.C. SEC. 230 (f)(2); AN INFORMATION SERVICE, AS DEFINED IN 47
21 U.S.C. SEC. 153 (24); OR A TELECOMMUNICATIONS SERVICE, AS DEFINED
22 IN 47 U.S.C. SEC. 153 (53), FOR CONTENT PROVIDED BY ANOTHER PERSON.

23 (5) NOTHING IN THIS PART 15 IMPOSES LIABILITY ON THE PROVIDER
24 OF AN INTERACTIVE COMPUTER SERVICE, AS DEFINED IN 47 U.S.C. SEC. 230
25 (f)(2), FOR:

26 (a) AN ACTION THE PROVIDER OF AN INTERACTIVE COMPUTER
27 SERVICE TAKES VOLUNTARILY AND IN GOOD FAITH TO RESTRICT ACCESS TO

1 OR AVAILABILITY OF AN INTIMATE DIGITAL DEPICTION; OR

2 (b) AN ACTION THE PROVIDER OF AN INTERACTIVE COMPUTER
3 SERVICE TAKES TO ENABLE OR MAKE AVAILABLE TO INFORMATION
4 CONTENT PROVIDERS, AS DEFINED IN 47 U.S.C. SEC. 230 (f)(3), OR OTHER
5 PERSONS THE TECHNICAL MEANS TO RESTRICT ACCESS TO AN INTIMATE
6 DIGITAL DEPICTION.

7 (6) (a) NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART
8 15, A BROADCASTER IS NOT LIABLE PURSUANT TO THIS PART 15 SOLELY
9 FOR THE BROADCAST, REBROADCAST, OR PUBLICATION OF THIRD-PARTY
10 CONTENT THAT CONTAINS OR IS ALLEGED TO CONTAIN AN INTIMATE
11 DIGITAL DEPICTION IF THE BROADCASTER:

12 (I) DID NOT CREATE, ALTER, OR MATERIALLY CONTRIBUTE TO THE
13 DEVELOPMENT OF THE INTIMATE DIGITAL DEPICTION;

14 (II) LACKED ACTUAL KNOWLEDGE THAT THE CONTENT WAS AN
15 INTIMATE DIGITAL DEPICTION THAT THE DEPICTED INDIVIDUAL DID NOT
16 CONSENT TO HAVE DISCLOSED; AND

17 (III) UPON OBTAINING THE ACTUAL KNOWLEDGE DESCRIBED IN
18 SUBSECTION (6)(a)(II) OF THIS SECTION, ACTED PROMPTLY AND IN GOOD
19 FAITH TO REMOVE, CEASE FURTHER DISSEMINATION OF, OR OTHERWISE
20 LIMIT ACCESS TO THE CONTENT, WHEN REASONABLY FEASIBLE.

21 (b) THIS SUBSECTION (6) DOES NOT LIMIT LIABILITY IF A
22 BROADCASTER KNOWINGLY OR RECKLESSLY BROADCASTS, PUBLISHES, OR
23 DISTRIBUTES CONTENT IN VIOLATION OF THIS PART 15, OR FAILS TO
24 RESPOND TO A VALID REQUEST TO REMOVE THE MATERIAL.

25 (7) THIS PART 15 MUST BE CONSTRUED TO BE CONSISTENT WITH
26 THE FEDERAL "COMMUNICATIONS DECENCY ACT OF 1996", 47 U.S.C. SEC.
27 230.

1 **13-21-1505. Plaintiff privacy.** (1) IN A CIVIL ACTION FILED
2 PURSUANT TO THIS PART 15:

3 (a) A PLAINTIFF MAY PROCEED USING A PSEUDONYM IN PLACE OF
4 THE PLAINTIFF'S TRUE NAME;

5 (b) THE COURT MAY AUTHORIZE AN IN CAMERA PROCEEDING; AND

6 (c) THE COURT MAY MAKE FURTHER ORDERS AS NECESSARY TO
7 PROTECT THE IDENTITY AND PRIVACY OF A PLAINTIFF.

8 **13-21-1506. Remedies.** (1) IN A CIVIL ACTION FILED PURSUANT
9 TO THIS PART 15, A PREVAILING PLAINTIFF MAY RECOVER ALL OF THE
10 FOLLOWING:

11 (a) AN AMOUNT EQUAL TO THE MONETARY GAIN THE DEFENDANT
12 MADE FROM THE CREATION, DEVELOPMENT, OR DISCLOSURE OF THE
13 INTIMATE DIGITAL DEPICTION;

14 (b) EITHER OF THE FOLLOWING, WHICHEVER IS GREATER:

15 (I) THE ACTUAL DAMAGES SUSTAINED BY THE DEPICTED
16 INDIVIDUAL AS A RESULT OF THE INTIMATE DIGITAL DEPICTION'S
17 DISCLOSURE, INCLUDING DAMAGES FOR EMOTIONAL DISTRESS; OR

18 (II) LIQUIDATED DAMAGES OF ONE HUNDRED FIFTY THOUSAND
19 DOLLARS;

20 (c) EXEMPLARY DAMAGES; AND

21 (d) THE COST OF THE ACTION, INCLUDING REASONABLE ATTORNEY
22 FEES AND OTHER LITIGATION COSTS REASONABLY INCURRED.

23 (2) IN A CIVIL ACTION FILED PURSUANT TO THIS PART 15, A COURT
24 MAY, IN ADDITION TO ANY OTHER RELIEF AVAILABLE PURSUANT TO STATE
25 LAW, ORDER EQUITABLE RELIEF, INCLUDING A TEMPORARY RESTRAINING
26 ORDER, A PRELIMINARY INJUNCTION, OR A PERMANENT INJUNCTION
27 ORDERING THE DEFENDANT TO CEASE DISCLOSURE OF THE INTIMATE

1 DIGITAL DEPICTION.

2 **13-21-1507. Rules.** THE ATTORNEY GENERAL MAY ADOPT RULES
3 AS NECESSARY FOR THE PURPOSE OF IMPLEMENTING THIS PART 15.

4 **SECTION 2.** In Colorado Revised Statutes, 18-6-403, **amend**
5 (2)(j); and **add** (1.7), (2)(b.7), (2)(f.5), (9), and (10) as follows:

6 **18-6-403. Sexual exploitation of a child - legislative declaration**
7 **- definitions. (1.7) THE GENERAL ASSEMBLY FURTHER FINDS AND**
8 **DECLARES THAT:**

9 (a) DUE TO ADVANCES IN TECHNOLOGY AND ARTIFICIAL
10 INTELLIGENCE, PERPETRATORS CAN GENERATE DEPICTIONS OF CHILDREN
11 VIA COMPUTER PROGRAMMING THAT ARE INDISTINGUISHABLE FROM
12 DEPICTIONS OF REAL CHILDREN; USE PARTIAL IMAGES OF REAL CHILDREN
13 TO CREATE A COMPOSITE IMAGE THAT IS UNIDENTIFIABLE AS A
14 PARTICULAR CHILD AND THAT PREVENTS EVEN EXPERTS FROM
15 CONCLUDING THAT PARTIAL IMAGES OF REAL CHILDREN WERE USED; AND
16 DISGUISE PICTURES OF REAL CHILDREN BEING ABUSED BY MAKING THE
17 IMAGES APPEAR COMPUTER-GENERATED, THEREBY AVOIDING DETECTION
18 AND PROSECUTION UNDER PREVIOUS STATUTES; AND

19 (b) SEXUALLY EXPLOITATIVE MATERIAL RESULTS FROM THE ABUSE
20 OF REAL CHILDREN, WHETHER OR NOT THE ARTIFICIAL GENERATION OR
21 MODIFICATION INVOLVES AN IDENTIFIABLE CHILD. ARTIFICIALLY
22 GENERATED CHILD SEXUAL ABUSE MATERIAL RE-VICTIMIZES ACTUAL
23 CHILD VICTIMS, AS THEIR IMAGES ARE COLLECTED FROM TECHNOLOGICAL
24 SOURCES, INCLUDING THE INTERNET, AND STUDIED BY ARTIFICIAL
25 INTELLIGENCE. THE DANGER FACING COLORADO'S CHILDREN WHO ARE
26 ABUSED WITH THE AID OF SEXUALLY EXPLOITATIVE MATERIAL IS JUST AS
27 GREAT WHEN THE ABUSER USES MATERIAL PRODUCED IN WHOLE OR IN

1 PART BY COMPUTER PROGRAMMING OR ARTIFICIAL INTELLIGENCE AS WHEN
2 THE MATERIAL CONSISTS OF IMAGES OF REAL CHILDREN.

3 (c) WITHOUT LEGISLATIVE ACTION, THE DIFFICULTIES THAT
4 MEMBERS OF LAW ENFORCEMENT WHO SPECIALIZE IN INVESTIGATING
5 INTERNET CRIMES AGAINST CHILDREN FACE WILL CONTINUE TO INTENSIFY
6 AND THREATEN TO RENDER UNENFORCEABLE OUR LAWS THAT PROTECT
7 REAL CHILDREN. IT IS CONTRARY TO THE VALUES OF THE PEOPLE OF
8 COLORADO TO TOLERATE THE POSSESSION, CREATION, OR DISSEMINATION
9 OF SEXUALLY ABUSIVE CONTENT CONTAINING IMAGES THAT ARE
10 VIRTUALLY INDISTINGUISHABLE FROM THOSE OF REAL CHILDREN.

11 (2) As used in this section, unless the context otherwise requires:

12 (b.7) "DIGITIZATION" HAS THE SAME MEANING AS IN SECTION
13 18-7-107 (6)(i).

14 (f.5) "OBSCENE" MEANS A VISUAL DEPICTION THAT:

15 (I) THE AVERAGE PERSON, APPLYING CONTEMPORARY COMMUNITY
16 STANDARDS, WOULD FIND THAT, TAKEN AS A WHOLE, APPEALS TO THE
17 PRURIENT INTEREST IN SEX;

18 (II) DEPICTS OR DESCRIBES:

19 (A) PATENTLY OFFENSIVE REPRESENTATIONS OR DESCRIPTIONS OF
20 ULTIMATE SEX ACTS, NORMAL OR PERVERTED, ACTUAL OR SIMULATED,
21 INCLUDING SEXUAL INTERCOURSE, SODOMY, AND SEXUAL BESTIALITY; OR

22 (B) PATENTLY OFFENSIVE REPRESENTATIONS OR DESCRIPTIONS OF
23 MASTURBATION, EXCRETORY FUNCTIONS, SADISM, MASOCHISM, LEWD
24 EXHIBITION OF THE GENITALS, THE GENITALS IN A STATE OF SEXUAL
25 STIMULATION OR AROUSAL, OR THE COVERED PENIS IN A DISCERNIBLY
26 TURGID STATE; AND

27 (III) TAKEN AS A WHOLE, LACKS SERIOUS LITERARY, ARTISTIC,

1 POLITICAL, OR SCIENTIFIC VALUE.

2 (j) "Sexually exploitative material" means: ~~any~~

3 (I) A photograph, motion picture, video, recording or broadcast
4 of moving visual images, live stream, print, negative, slide, or other
5 mechanically, electronically, chemically, or digitally reproduced visual
6 material that depicts a child engaged in, participating in, observing, or
7 being used for explicit sexual conduct; OR

8 (II) A REALISTIC VISUAL DEPICTION OR STORED DATA THAT IS
9 CAPABLE OF CONVERSION INTO A REALISTIC VISUAL DEPICTION, WHETHER
10 CREATED, ALTERED, OR PRODUCED BY DIGITIZATION OR
11 COMPUTER-GENERATED MEANS, THAT IS INDISTINGUISHABLE FROM THAT
12 OF A CHILD ENGAGED IN, PARTICIPATING IN, OBSERVING, OR BEING USED
13 FOR EXPLICIT SEXUAL CONDUCT AND THAT IS OBSCENE.

14 (9) IN A PROSECUTION BROUGHT PURSUANT TO THIS SECTION, THE
15 STATE IS NOT REQUIRED TO ESTABLISH THE IDENTITY OF THE ALLEGED
16 VICTIM.

17 (10) WHEN THE CHARGED OFFENSE INVOLVES SEXUALLY
18 EXPLOITATIVE MATERIAL PURSUANT TO SUBSECTION (2)(j)(II) OF THIS
19 SECTION, IT IS NOT A DEFENSE THAT THE DEFENDANT LACKED KNOWLEDGE
20 OF WHETHER THE REALISTIC VISUAL DEPICTION WAS CREATED, ALTERED,
21 OR PRODUCED BY DIGITIZATION OR COMPUTER-GENERATED MEANS.

22 **SECTION 3.** In Colorado Revised Statutes, 18-7-107, **amend** (1),
23 (2.5), (4)(b), (5), and (6); and **add** (5.5) as follows:

24 **18-7-107. Disclosing a private intimate image or intimate**
25 **digital depiction for harassment - definitions.** (1) (a) An actor who is
26 eighteen years of age or older commits the offense of ~~posting a private~~
27 ~~image~~ DISCLOSING A PRIVATE INTIMATE IMAGE OR INTIMATE DIGITAL

1 ~~DEPICTION for harassment if the actor posts or distributes~~ DISCLOSES OR
2 THREATENS TO DISCLOSE through the use of ~~social~~ ELECTRONIC media or
3 ~~any A website any photograph, video, or other image displaying the real~~
4 ~~or simulated private intimate parts of an identified or identifiable person~~
5 ~~eighteen years of age or older or an image displaying sexual acts of an~~
6 ~~identified or identifiable person~~ A PRIVATE INTIMATE IMAGE OR AN
7 INTIMATE DIGITAL DEPICTION WITHOUT THE DEPICTED INDIVIDUAL'S
8 CONSENT:

9 (I) With the intent to harass, intimidate, or coerce the depicted
10 ~~person~~ INDIVIDUAL; OR

11 ~~(II) (A) Without the depicted person's consent; or~~

12 ~~(B) When the actor knew or should have known that the depicted~~
13 ~~person had a reasonable expectation that the image would remain private;~~
14 ~~and~~

15 ~~(III) The conduct results in serious emotional distress of the~~
16 ~~depicted person.~~

17 (IV) WHEN THE ACTOR KNEW OR REASONABLY SHOULD HAVE
18 KNOWN THAT THE DISCLOSURE WOULD CAUSE PHYSICAL, EMOTIONAL, OR
19 REPUTATIONAL HARM TO THE DEPICTED INDIVIDUAL.

20 ~~(b) Posting a private image~~ DISCLOSING A PRIVATE INTIMATE
21 IMAGE OR INTIMATE DIGITAL DEPICTION for harassment is a class 1
22 misdemeanor; EXCEPT THAT IT IS A CLASS 6 FELONY IF THE ACTOR
23 DISCLOSED THE PRIVATE INTIMATE IMAGE OR INTIMATE DIGITAL DEPICTION
24 AND THE DISCLOSURE:

25 (I) AFFECTED THE CONDUCT OF AN ADMINISTRATIVE, LEGISLATIVE,
26 OR JUDICIAL PROCEEDING OF A GOVERNMENTAL AGENCY, INCLUDING THE
27 ADMINISTRATION OF AN ELECTION; OR

1 (II) POSED AN IMMINENT AND SERIOUS THREAT TO THE DEPICTED
2 INDIVIDUAL'S SAFETY OR THE SAFETY OF THE DEPICTED INDIVIDUAL'S
3 IMMEDIATE FAMILY AND THE ACTOR KNEW OR REASONABLY SHOULD HAVE
4 KNOWN OF THE IMMINENT AND SERIOUS THREAT.

5 (c) Notwithstanding ~~the provisions of section 18-1.3-501 (1)(a)~~
6 SECTION 18-1.3-501 (1)(a.5), in addition to any other sentence the court
7 may impose, the court shall fine the defendant up to ten thousand dollars.
8 The fines collected pursuant to this ~~paragraph (c)~~ shall SUBSECTION (1)(c)
9 MUST be credited to the crime victim compensation fund created in
10 section 24-4.1-117. ~~C.R.S.~~

11 (2.5) It is not a defense to an alleged violation of this section that
12 ~~the image is partially digitally created or altered or that the private~~
13 ~~intimate parts were digitally created or altered~~ THERE IS A DISCLAIMER
14 STATING THAT THE INTIMATE DIGITAL DEPICTION OF THE DEPICTED
15 INDIVIDUAL WAS UNAUTHORIZED OR THAT THE DEPICTED INDIVIDUAL DID
16 NOT PARTICIPATE IN THE CREATION OR DEVELOPMENT OF THE INTIMATE
17 DIGITAL DEPICTION.

18 (4) (b) An individual whose private intimate ~~parts have been~~
19 ~~posted or an individual who has had an image displaying sexual acts of~~
20 ~~the individual posted~~ IMAGE HAS BEEN DISCLOSED in accordance with this
21 section ~~shall retain~~ RETAINS a protectable right of authorship regarding
22 the commercial use of the private INTIMATE image.

23 (5) (a) Nothing in this section ~~shall be construed to impose~~
24 IMPOSES liability on the provider of an interactive computer service, as
25 defined in 47 U.S.C. sec. 230 (f)(2); an information service, as defined in
26 ~~47 U.S.C. sec. 153~~ 47 U.S.C. SEC. 153 (24); or a telecommunications
27 service, as defined in ~~47 U.S.C. sec. 153~~ 47 U.S.C. SEC. 153 (53), for

1 content provided by another person.

2 (b) NOTHING IN THIS SECTION IMPOSES LIABILITY ON THE
3 PROVIDER OF AN INTERACTIVE COMPUTER SERVICE, AS DEFINED IN 47
4 U.S.C. SEC. 230 (f)(2), FOR:

5 (I) AN ACTION THE PROVIDER OF AN INTERACTIVE COMPUTER
6 SERVICE TAKES VOLUNTARILY AND IN GOOD FAITH TO RESTRICT ACCESS TO
7 OR AVAILABILITY OF A PRIVATE INTIMATE IMAGE OR INTIMATE DIGITAL
8 DEPICTION; OR

9 (II) AN ACTION THE PROVIDER OF AN INTERACTIVE COMPUTER
10 SERVICE TAKES TO ENABLE OR MAKE AVAILABLE TO INFORMATION
11 CONTENT PROVIDERS, AS DEFINED IN 47 U.S.C. SEC. 230 (f)(3), OR OTHER
12 PERSONS THE TECHNICAL MEANS TO RESTRICT ACCESS TO A PRIVATE
13 INTIMATE IMAGE OR INTIMATE DIGITAL DEPICTION.

14 (5.5) THIS SECTION DOES NOT APPLY TO A DISCLOSURE OF A
15 PRIVATE INTIMATE IMAGE OR AN INTIMATE DIGITAL DEPICTION IF THE
16 DISCLOSURE WAS MADE IN GOOD FAITH:

17 (a) TO LAW ENFORCEMENT WHILE REPORTING A VIOLATION OF THIS
18 SECTION; OR

19 (b) TO THE COURT, A PARTY, OR A FINDER OF FACT IN A CRIMINAL
20 PROCEEDING BROUGHT PURSUANT TO THIS SECTION.

21 (6) For purposes of this section, unless the context otherwise
22 requires:

23 (a) ~~"Displaying sexual acts" means any display of sexual acts even~~
24 ~~if the private intimate parts are not visible in the image.~~

25 (b) ~~"Image" means a photograph, film, videotape, recording,~~
26 ~~digital file, or other reproduction.~~

27 (c) ~~"Private intimate parts" means external genitalia or the~~

1 ~~perineum or the anus or the pubes of any person or the breast of a female.~~

2 ~~(d) "Sexual acts" means sexual intrusion or sexual penetration as~~
3 ~~defined by section 18-3-401.~~

4 ~~(e) "Social media" means any electronic medium, including an~~
5 ~~interactive computer service, telephone network, or data network, that~~
6 ~~allows users to create, share, and view user-generated content, including~~
7 ~~but not limited to videos, still photographs, blogs, video blogs, podcasts,~~
8 ~~instant messages, electronic mail, or internet website profiles.~~

9 (f) "COMPUTER-GENERATED" MEANS CREATED, DEVELOPED,
10 MADE, OR PRODUCED BY DIGITAL SOFTWARE, INCLUDING, BUT NOT
11 LIMITED TO, PHONE APPLICATIONS AND IMAGE EDITING SOFTWARE.

12 (g) "DEPICTED INDIVIDUAL" MEANS AN INDIVIDUAL WHO IS
13 IDENTIFIABLE BY VIRTUE OF THE INDIVIDUAL'S FACE, LIKENESS, OR OTHER
14 DISTINGUISHING CHARACTERISTIC, INCLUDING A UNIQUE BIRTHMARK OR
15 OTHER RECOGNIZABLE FEATURE, AND WHO:

16 (I) BY DIGITAL OR COMPUTER-GENERATED MEANS APPEARS IN
17 WHOLE OR IN PART IN AN INTIMATE DIGITAL DEPICTION; OR

18 (II) APPEARS IN WHOLE OR IN PART IN A PRIVATE INTIMATE IMAGE.

19 (h) "DIGITAL DEPICTION" MEANS A PHOTOGRAPH, FILM,
20 VIDEOTAPE, RECORDING, DIGITAL FILE, OR OTHER REALISTIC VISUAL
21 DEPICTION OF A DEPICTED INDIVIDUAL THAT HAS BEEN CREATED,
22 ALTERED, OR PRODUCED BY DIGITIZATION OR COMPUTER-GENERATED
23 MEANS. "DIGITAL DEPICTION" INCLUDES STORED DATA THAT IS CAPABLE
24 OF CONVERSION INTO A VISUAL IMAGE. "DIGITAL DEPICTION" DOES NOT
25 INCLUDE HANDMADE DRAWINGS OR CARTOONS.

26 (i) "DIGITIZATION" MEANS CREATING OR ALTERING VISUAL OR
27 PRINTED MATTER IN A REALISTIC MANNER USING IMAGES OF ANOTHER

1 PERSON OR COMPUTER-GENERATED IMAGES, REGARDLESS OF WHETHER
2 THE CREATION OR ALTERATION IS ACCOMPLISHED MANUALLY OR THROUGH
3 AN AUTOMATED PROCESS. "DIGITIZATION" INCLUDES, BUT IS NOT LIMITED
4 TO, CREATION OR ALTERATION OF VISUAL OR PRINTED MATTER USING
5 GENERATIVE AI SOFTWARE.

6 (j) "DISCLOSE" MEANS TO TRANSFER, PUBLISH, DISTRIBUTE, OR
7 MAKE ACCESSIBLE.

8 (k) "ELECTRONIC MEDIA" MEANS AN ELECTRONIC MEDIUM,
9 INCLUDING AN INTERACTIVE COMPUTER SERVICE, TELEPHONE NETWORK,
10 OR DATA NETWORK, THAT ALLOWS USERS TO CREATE, SHARE, AND VIEW
11 USER-GENERATED CONTENT, INCLUDING, BUT NOT LIMITED TO, VIDEOS,
12 STILL PHOTOGRAPHS, BLOGS, VIDEO BLOGS OR CHATS, LIVE BLOGS OR LIVE
13 STREAMS, PODCASTS, INSTANT MESSAGES, DIRECT MESSAGES, ELECTRONIC
14 MAIL, OR INTERNET WEBSITE PROFILES.

15 (l) "EXPLICIT SEXUAL CONDUCT" MEANS SEXUAL INTERCOURSE,
16 SEXUAL INTRUSION, EROTIC FONDLING, EROTIC NUDITY, MASTURBATION,
17 SADOMASOCHISM, OR SEXUAL EXCITEMENT.

18 (m) "GENERATIVE AI" MEANS A SUBSET OF ARTIFICIAL
19 INTELLIGENCE THAT INVOLVES USING ALGORITHMS AND MODELS TO
20 GENERATE OR CREATE NEW AND ORIGINAL CONTENT.

21 (n) "IMAGE EDITING SOFTWARE" MEANS A COMPUTER PROGRAM
22 THAT ALLOWS EDITING, MODIFICATION, OR ALTERATION OF AN IMAGE OR
23 VIDEO.

24 (o) "INTIMATE DIGITAL DEPICTION" MEANS A DIGITAL DEPICTION
25 THAT DEPICTS:

26 (I) THE INTIMATE PARTS OF A DEPICTED INDIVIDUAL;

27 (II) SEXUAL CONTACT WITH A DEPICTED INDIVIDUAL; OR

1 (III) A DEPICTED INDIVIDUAL ENGAGING IN EXPLICIT SEXUAL
2 CONDUCT.

3 (p) "PRIVATE INTIMATE IMAGE" MEANS A PHOTOGRAPH, FILM,
4 VIDEOTAPE, RECORDING, DIGITAL FILE, OR OTHER REPRODUCTION THAT
5 DEPICTS THE PRIVATE INTIMATE PARTS OF A DEPICTED INDIVIDUAL,
6 SEXUAL CONTACT BY A PERSON WITH A DEPICTED INDIVIDUAL, OR A
7 DEPICTED INDIVIDUAL ENGAGING IN EXPLICIT SEXUAL CONDUCT,
8 REGARDLESS OF WHETHER OR NOT INTIMATE PARTS ARE VISIBLE IN THE
9 IMAGE.

10 (q) "PRIVATE INTIMATE PARTS" MEANS EXTERNAL GENITALIA OR
11 THE PERINEUM OR THE ANUS OR THE PUBES OF A PERSON OR THE BREAST
12 OF A FEMALE.

13 (r) "SEXUAL CONTACT" MEANS:

14 (I) THE TOUCHING OF A DEPICTED INDIVIDUAL'S INTIMATE PARTS
15 BY ANOTHER PERSON, OR OF THE OTHER PERSON'S INTIMATE PARTS BY THE
16 DEPICTED INDIVIDUAL, OR THE TOUCHING OF THE CLOTHING COVERING THE
17 IMMEDIATE AREA OF THE DEPICTED INDIVIDUAL OR OTHER PERSON'S
18 INTIMATE PARTS IF THAT SEXUAL CONTACT IS FOR THE PURPOSES OF
19 SEXUAL AROUSAL, GRATIFICATION, OR ABUSE;

20 (II) THE EMISSION OR EJACULATION OF SEMINAL FLUID ONTO A
21 BODY PART OF THE DEPICTED INDIVIDUAL OR THE CLOTHING COVERING A
22 BODY PART OF THE DEPICTED INDIVIDUAL; OR

23 (III) CAUSING SEMEN, BLOOD, URINE, FECES, OR A BODILY
24 SUBSTANCE TO CONTACT A BODY PART OF THE DEPICTED INDIVIDUAL OR
25 THE CLOTHING COVERING A BODY PART OF THE DEPICTED INDIVIDUAL IF
26 THAT CONTACT WITH SEMEN, BLOOD, URINE, FECES, OR A BODILY
27 SUBSTANCE IS FOR THE PURPOSE OF SEXUAL AROUSAL, GRATIFICATION, OR

1 ABUSE.

2 **SECTION 4.** In Colorado Revised Statutes, 18-7-108, **amend** (1),
3 (2.5), (4)(b), (5), and (6); and **add** (5.5) as follows:

4 **18-7-108. Disclosing a private intimate image or intimate**
5 **digital depiction for pecuniary gain - definitions.** (1) (a) An actor who
6 is eighteen years of age or older commits the offense of ~~posting a private~~
7 ~~image~~ DISCLOSING A PRIVATE INTIMATE IMAGE OR INTIMATE DIGITAL
8 DEPICTION for pecuniary gain if the actor ~~posts or distributes~~ DISCLOSES
9 OR THREATENS TO DISCLOSE through ~~social~~ ELECTRONIC media or ~~any~~ A
10 website ~~any photograph, video, or other image displaying the real or~~
11 ~~simulated private intimate parts of an identified or identifiable person~~
12 ~~eighteen years of age or older or an image displaying sexual acts of an~~
13 ~~identified or identifiable person~~ A PRIVATE INTIMATE IMAGE OR INTIMATE
14 DIGITAL DEPICTION WITHOUT THE DEPICTED INDIVIDUAL'S CONSENT:

15 (I) With the intent to obtain a pecuniary benefit from ~~any~~ A person
16 as a result of the ~~posting, viewing, or removal~~ DISCLOSURE, THREATENED
17 DISCLOSURE, OR RETRACTION of the private INTIMATE image ~~and~~ OR
18 INTIMATE DIGITAL DEPICTION; OR

19 (II) (A) ~~When the actor has not obtained the depicted person's~~
20 ~~consent; or~~

21 (B) ~~When the actor knew or REASONABLY should have known that~~
22 ~~the depicted person had a reasonable expectation that the image would~~
23 ~~remain private~~ DISCLOSURE OR THREATENED DISCLOSURE WOULD CAUSE
24 FINANCIAL HARM TO THE DEPICTED INDIVIDUAL.

25 (b) ~~Posting a private image~~ DISCLOSING A PRIVATE INTIMATE
26 IMAGE OR INTIMATE DIGITAL DEPICTION for pecuniary gain is a class 1
27 misdemeanor; EXCEPT THAT IT IS A CLASS 6 FELONY IF THE ACTOR

1 DISCLOSED THE PRIVATE INTIMATE IMAGE OR INTIMATE DIGITAL DEPICTION
2 AND THE DISCLOSURE:

3 (I) AFFECTED THE CONDUCT OF AN ADMINISTRATIVE, LEGISLATIVE,
4 OR JUDICIAL PROCEEDING OF A GOVERNMENTAL AGENCY, INCLUDING THE
5 ADMINISTRATION OF AN ELECTION; OR

6 (II) POSED AN IMMINENT AND SERIOUS THREAT TO THE DEPICTED
7 INDIVIDUAL'S SAFETY OR THE SAFETY OF THE DEPICTED INDIVIDUAL'S
8 IMMEDIATE FAMILY AND THE ACTOR KNEW OR REASONABLY SHOULD HAVE
9 KNOWN OF THE IMMINENT AND SERIOUS THREAT.

10 (c) Notwithstanding ~~the provisions of section 18-1.3-501 (1)(a)~~
11 SECTION 18-1.3-501 (1)(a.5), in addition to any other sentence the court
12 may impose, the court shall fine the defendant up to ten thousand dollars.
13 The fines collected pursuant to this ~~paragraph (c)~~ shall SUBSECTION (1)(c)
14 MUST be credited to the crime victim compensation fund created in
15 section 24-4.1-117. ~~C.R.S.~~

16 (2.5) It is not a defense to an alleged violation of this section that
17 ~~the image is partially digitally created or altered or that the private~~
18 ~~intimate parts were digitally created or altered~~ THERE IS A DISCLAIMER
19 STATING THAT THE INTIMATE DIGITAL DEPICTION OF THE DEPICTED
20 INDIVIDUAL WAS UNAUTHORIZED OR THAT THE DEPICTED INDIVIDUAL DID
21 NOT PARTICIPATE IN THE CREATION OR DEVELOPMENT OF THE INTIMATE
22 DIGITAL DEPICTION.

23 (4) (b) An individual whose private intimate ~~parts have been~~
24 ~~posted or an individual who has had an image displaying sexual acts of~~
25 ~~the individual posted~~ IMAGE HAS BEEN DISCLOSED in accordance with this
26 section ~~shall retain~~ RETAINS a protectable right of authorship regarding
27 the commercial use of the private INTIMATE image.

1 (5) (a) Nothing in this section ~~shall be construed to impose~~
2 IMPOSES liability on the provider of an interactive computer service, as
3 defined in 47 U.S.C. sec. 230 (f)(2); an information service, as defined in
4 ~~47 U.S.C. sec. 153~~ 47 U.S.C. SEC. 153 (24); or a telecommunications
5 service, as defined in ~~47 U.S.C. sec. 153~~ 47 U.S.C. SEC. 153 (53), for
6 content provided by another person.

7 (b) NOTHING IN THIS SECTION IMPOSES LIABILITY ON THE
8 PROVIDER OF AN INTERACTIVE COMPUTER SERVICE, AS DEFINED IN 47
9 U.S.C. SEC. 230 (f)(2), FOR:

10 (I) AN ACTION THE PROVIDER OF AN INTERACTIVE COMPUTER
11 SERVICE TAKES VOLUNTARILY AND IN GOOD FAITH TO RESTRICT ACCESS TO
12 OR AVAILABILITY OF A PRIVATE INTIMATE IMAGE OR INTIMATE DIGITAL
13 DEPICTION; OR

14 (II) AN ACTION THE PROVIDER OF AN INTERACTIVE COMPUTER
15 SERVICE TAKES TO ENABLE OR MAKE AVAILABLE TO INFORMATION
16 CONTENT PROVIDERS, AS DEFINED IN 47 U.S.C. SEC. 230 (f)(3), OR OTHER
17 PERSONS THE TECHNICAL MEANS TO RESTRICT ACCESS TO A PRIVATE
18 INTIMATE IMAGE OR INTIMATE DIGITAL DEPICTION.

19 (5.5) THIS SECTION DOES NOT APPLY TO A DISCLOSURE OF A
20 PRIVATE INTIMATE IMAGE OR AN INTIMATE DIGITAL DEPICTION IF THE
21 DISCLOSURE WAS MADE IN GOOD FAITH:

22 (a) TO LAW ENFORCEMENT WHILE REPORTING A VIOLATION OF THIS
23 SECTION; OR

24 (b) TO THE COURT, A PARTY, OR A FINDER OF FACT IN A CRIMINAL
25 PROCEEDING BROUGHT PURSUANT TO THIS SECTION.

26 (6) For purposes of this section, unless the context otherwise
27 requires:

1 (a) ~~"Displaying sexual acts" means any display of sexual acts even~~
2 ~~if the private intimate parts are not visible in the image.~~

3 (b) ~~"Image" means a photograph, film, videotape, recording,~~
4 ~~digital file, or other reproduction.~~

5 (c) ~~"Private intimate parts" means external genitalia or the~~
6 ~~perineum or the anus or the pubes of any person or the breast of a female.~~

7 (d) ~~"Sexual acts" means sexual intrusion or sexual penetration as~~
8 ~~defined by section 18-3-401.~~

9 (e) ~~"Social media" means any electronic medium, including an~~
10 ~~interactive computer service, telephone network, or data network, that~~
11 ~~allows users to create, share, and view user-generated content, including~~
12 ~~but not limited to videos, still photographs, blogs, video blogs, podcasts,~~
13 ~~instant messages, electronic mail, or internet website profiles.~~

14 (f) "COMPUTER-GENERATED" MEANS CREATED, DEVELOPED,
15 MADE, OR PRODUCED BY DIGITAL SOFTWARE, INCLUDING, BUT NOT
16 LIMITED TO, PHONE APPLICATIONS AND IMAGE EDITING SOFTWARE.

17 (g) "DEPICTED INDIVIDUAL" MEANS AN INDIVIDUAL WHO IS
18 IDENTIFIABLE BY VIRTUE OF THE INDIVIDUAL'S FACE, LIKENESS, OR OTHER
19 DISTINGUISHING CHARACTERISTIC, INCLUDING A UNIQUE BIRTHMARK OR
20 OTHER RECOGNIZABLE FEATURE, AND WHO:

21 (I) BY DIGITAL OR COMPUTER-GENERATED MEANS APPEARS IN
22 WHOLE OR IN PART IN AN INTIMATE DIGITAL DEPICTION; OR

23 (II) APPEARS IN WHOLE OR IN PART IN A PRIVATE INTIMATE IMAGE.

24 (h) "DIGITAL DEPICTION" MEANS A PHOTOGRAPH, FILM,
25 VIDEOTAPE, RECORDING, DIGITAL FILE, OR OTHER REALISTIC VISUAL
26 DEPICTION OF A DEPICTED INDIVIDUAL THAT HAS BEEN CREATED,
27 ALTERED, OR PRODUCED BY DIGITIZATION OR COMPUTER-GENERATED

1 MEANS. "DIGITAL DEPICTION" INCLUDES STORED DATA THAT IS CAPABLE
2 OF CONVERSION INTO A VISUAL IMAGE. "DIGITAL DEPICTION" DOES NOT
3 INCLUDE HANDMADE DRAWINGS OR CARTOONS.

4 (i) "DIGITIZATION" MEANS CREATING OR ALTERING VISUAL OR
5 PRINTED MATTER IN A REALISTIC MANNER USING IMAGES OF ANOTHER
6 PERSON OR COMPUTER-GENERATED IMAGES, REGARDLESS OF WHETHER
7 THE CREATION OR ALTERATION IS ACCOMPLISHED MANUALLY OR THROUGH
8 AN AUTOMATED PROCESS. "DIGITIZATION" INCLUDES, BUT IS NOT LIMITED
9 TO, CREATION OR ALTERATION OF VISUAL OR PRINTED MATTER USING
10 GENERATIVE AI SOFTWARE.

11 (j) "DISCLOSE" MEANS TO TRANSFER, PUBLISH, DISTRIBUTE, OR
12 MAKE ACCESSIBLE.

13 (k) "ELECTRONIC MEDIA" MEANS AN ELECTRONIC MEDIUM,
14 INCLUDING AN INTERACTIVE COMPUTER SERVICE, TELEPHONE NETWORK,
15 OR DATA NETWORK, THAT ALLOWS USERS TO CREATE, SHARE, AND VIEW
16 USER-GENERATED CONTENT, INCLUDING, BUT NOT LIMITED TO, VIDEOS,
17 STILL PHOTOGRAPHS, BLOGS, VIDEO BLOGS OR CHATS, LIVE BLOGS OR LIVE
18 STREAMS, PODCASTS, INSTANT MESSAGES, DIRECT MESSAGES, ELECTRONIC
19 MAIL, OR INTERNET WEBSITE PROFILES.

20 (l) "EXPLICIT SEXUAL CONDUCT" MEANS SEXUAL INTERCOURSE,
21 SEXUAL INTRUSION, EROTIC FONDLING, EROTIC NUDITY, MASTURBATION,
22 SADOMASOCHISM, OR SEXUAL EXCITEMENT.

23 (m) "GENERATIVE AI" MEANS A SUBSET OF ARTIFICIAL
24 INTELLIGENCE THAT INVOLVES USING ALGORITHMS AND MODELS TO
25 GENERATE OR CREATE NEW AND ORIGINAL CONTENT.

26 (n) "IMAGE EDITING SOFTWARE" MEANS A COMPUTER PROGRAM
27 THAT ALLOWS EDITING, MODIFICATION, OR ALTERATION OF AN IMAGE OR

1 VIDEO.

2 (o) "INTIMATE DIGITAL DEPICTION" MEANS A DIGITAL DEPICTION
3 THAT DEPICTS:

4 (I) THE INTIMATE PARTS OF A DEPICTED INDIVIDUAL;

5 (II) SEXUAL CONTACT WITH A DEPICTED INDIVIDUAL; OR

6 (III) A DEPICTED INDIVIDUAL ENGAGING IN EXPLICIT SEXUAL
7 CONDUCT.

8 (p) "PRIVATE INTIMATE IMAGE" MEANS A PHOTOGRAPH, FILM,
9 VIDEOTAPE, RECORDING, DIGITAL FILE, OR OTHER REPRODUCTION THAT
10 DEPICTS THE PRIVATE INTIMATE PARTS OF A DEPICTED INDIVIDUAL,
11 SEXUAL CONTACT BY A PERSON WITH A DEPICTED INDIVIDUAL, OR A
12 DEPICTED INDIVIDUAL ENGAGING IN EXPLICIT SEXUAL CONDUCT,
13 REGARDLESS OF WHETHER OR NOT INTIMATE PARTS ARE VISIBLE IN THE
14 IMAGE.

15 (q) "PRIVATE INTIMATE PARTS" MEANS EXTERNAL GENITALIA OR
16 THE PERINEUM OR THE ANUS OR THE PUBES OF ANY PERSON OR THE
17 BREAST OF A FEMALE.

18 (r) "SEXUAL CONTACT" MEANS:

19 (I) THE TOUCHING OF A DEPICTED INDIVIDUAL'S INTIMATE PARTS
20 BY ANOTHER PERSON, OR OF THE OTHER PERSON'S INTIMATE PARTS BY THE
21 DEPICTED INDIVIDUAL, OR THE TOUCHING OF THE CLOTHING COVERING THE
22 IMMEDIATE AREA OF THE DEPICTED INDIVIDUAL OR OTHER PERSON'S
23 INTIMATE PARTS IF THAT SEXUAL CONTACT IS FOR THE PURPOSES OF
24 SEXUAL AROUSAL, GRATIFICATION, OR ABUSE;

25 (II) THE EMISSION OR EJACULATION OF SEMINAL FLUID ONTO A
26 BODY PART OF THE DEPICTED INDIVIDUAL OR THE CLOTHING COVERING A
27 BODY PART OF THE DEPICTED INDIVIDUAL; OR

1 (III) CAUSING SEMEN, BLOOD, URINE, FECES, OR A BODILY
2 SUBSTANCE TO CONTACT A BODY PART OF THE DEPICTED INDIVIDUAL OR
3 THE CLOTHING COVERING A BODY PART OF THE DEPICTED INDIVIDUAL IF
4 THAT CONTACT WITH SEMEN, BLOOD, URINE, FECES, OR A BODILY
5 SUBSTANCE IS FOR THE PURPOSE OF SEXUAL AROUSAL, GRATIFICATION, OR
6 ABUSE.

7 **SECTION 5.** In Colorado Revised Statutes, 24-4.1-302, **amend**
8 (1)(mm) as follows:

9 **24-4.1-302. Definitions.** As used in this part 3, and for no other
10 purpose, including the expansion of the rights of any defendant:

11 (1) "Crime" means any of the following offenses, acts, and
12 violations as defined by the statutes of the state of Colorado, whether
13 committed by an adult or a juvenile:

14 (mm) ~~Posting a private image~~ DISCLOSING A PRIVATE INTIMATE
15 IMAGE OR INTIMATE DIGITAL DEPICTION for harassment in violation of
16 section 18-7-107 or ~~posting a private image~~ DISCLOSING A PRIVATE
17 INTIMATE IMAGE OR INTIMATE DIGITAL DEPICTION for pecuniary gain in
18 violation of section 18-7-108;

19 **SECTION 6. Act subject to petition - effective date -**
20 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
21 the expiration of the ninety-day period after final adjournment of the
22 general assembly; except that, if a referendum petition is filed pursuant
23 to section 1 (3) of article V of the state constitution against this act or an
24 item, section, or part of this act within such period, then the act, item,
25 section, or part will not take effect unless approved by the people at the
26 general election to be held in November 2026 and, in such case, will take
27 effect on the date of the official declaration of the vote thereon by the

1 governor.

2 (2) Sections 2, 3, 4, and 5 of this act apply to offenses committed

3 on or after the applicable effective date of this act.