



Senate

General Assembly

File No. 796

January Session, 2019

Senate Bill No. 843

Senate, April 25, 2019

The Committee on Judiciary reported through SEN. WINFIELD of the 10th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING THE UNLAWFUL DISSEMINATION OF INTIMATE IMAGES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 53a-189c of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2019*):

3 (a) A person is guilty of unlawful dissemination of an intimate
4 image when (1) such person intentionally disseminates by electronic or
5 other means to one or more persons a photograph, film, videotape or
6 other recorded image of (A) the genitals, pubic area or buttocks of
7 another person with less than a fully opaque covering of such body
8 part, or the breast of such other person who is female with less than a
9 fully opaque covering of any portion of such breast below the top of
10 the nipple, or (B) another person engaged in sexual intercourse, as
11 defined in section 53a-193, (2) such person disseminates such image to
12 one or more persons without the consent of such other person,
13 knowing that such other person understood that the image would not
14 be so disseminated, and (3) such other person suffers harm as a result
15 of such dissemination. For purposes of this subsection, "disseminate"
16 means to sell, give, provide, lend, trade, mail, deliver, transfer, publish,

17 distribute, circulate, present, exhibit, advertise or otherwise offer.

18 (b) The provisions of subsection (a) of this subsection shall not apply
19 to:

20 (1) Any image described in subsection (a) of this section of such
21 other person if such image resulted from voluntary exposure or
22 engagement in sexual intercourse by such other person, in a public
23 place, as defined in section 53a-181, or in a commercial setting;

24 (2) Any image described in subsection (a) of this section of such
25 other person, if such other person is not clearly identifiable; or

26 (3) Any image described in subsection (a) of this section of such
27 other person, if the dissemination of such image serves the public
28 interest.

29 (c) Unlawful dissemination of an intimate image to (1) a person by
30 any means is a class A misdemeanor, and (2) more than one person by
31 means of an interactive computer service, as defined in 47 USC 230, an
32 information service, as defined in 47 USC 153, or a telecommunications
33 service, as defined in section 16-247a, is a class D felony.

34 (d) Nothing in this section shall be construed to impose liability on
35 the provider of an interactive computer service, as defined in 47 USC
36 230, an information service, as defined in 47 USC 153, or a
37 telecommunications service, as defined in section 16-247a, for content
38 provided by another person.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2019	53a-189c

JUD *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 20 \$	FY 21 \$
Correction, Dept.; Judicial Dept. (Probation)	GF - Potential Cost	Minimal	Minimal
Resources of the General Fund	GF - Potential Revenue Gain	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill increases the penalty for unlawful dissemination when the image is shared with at least one person through electronic means, making it a class D felony. The bill results in a potential cost for incarceration or probation supervision and potential revenue from increased fines. On average, the marginal cost to the state for incarcerating an offender for the year is \$1,800¹ while the average marginal cost for supervision in the community is less than \$700² each year. In FY 18 there were nine charges of unlawful dissemination under the current statute. Of those, five charges were dismissed and four receive a plea. No fines were collected. There are currently seven people on probation and no incarcerations.

¹ Inmate marginal cost is based on increased consumables (e.g. food, clothing, water, sewage, living supplies, etc.) This does not include a change in staffing costs or utility expenses because these would only be realized if a unit or facility opened.

² Probation marginal cost is based on services provided by private providers and only includes costs that increase with each additional participant. This does not include a cost for additional supervision by a probation officer unless a new offense is anticipated to result in enough additional offenders to require additional probation officers.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**SB 843*****AN ACT CONCERNING THE UNLAWFUL DISSEMINATION OF INTIMATE IMAGES.*****SUMMARY**

This bill raises the penalty for unlawful dissemination of an intimate image if it is sent to more than one person by certain electronic means.

Under the bill, it is a class D felony, punishable by up to five years in prison, up to a \$5,000 fine, or both, to unlawfully disseminate an intimate image to more than one person by using an information service, telecommunications service, or interactive computer service.

Under current law, it is a class A misdemeanor, punishable by up to one year in prison, up to a \$2,000 fine, or both, to unlawfully disseminate an intimate image. The bill retains this penalty for unlawfully disseminating such an image to one person by any means. (Presumably, the penalty under the bill for disseminating an intimate image to more than one person without using any of the above electronic services remains a class A misdemeanor.)

EFFECTIVE DATE: October 1, 2019

UNLAWFUL DISSEMINATION TO MORE THAN ONE PERSON

Under the bill, a person commits the offense when:

1. he or she uses an information service, telecommunications service, or interactive computer service to disseminate to more than one person a photograph, film, videotape, or other recorded image of (a) another person's genitals, pubic area, or buttocks with less than a fully opaque covering over the body part; (b) a female's breast with less than a fully opaque covering of the breast below the top of the nipple; or (c) another person engaged

in sexual intercourse;

2. he or she does so without the subject's consent and knowing that the subject understood that the image would not be disseminated; and
3. the subject suffers harm as a result of the dissemination.

Dissemination of one of the above images is not an offense if (1) the image resulted from voluntary exposure or sexual intercourse in a public place or commercial setting, (2) the subject is not clearly identifiable, or (3) disseminating the image serves a public interest.

For these purposes, "disseminate" means to sell, give, provide, lend, trade, deliver, transfer, publish, circulate, present, exhibit, advertise, or otherwise offer.

TECHNOLOGY SERVICES DEFINED

Under the bill, an "information service" means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, using, or making available information via telecommunications, and includes electronic publishing. It does not include use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.

A "telecommunications service" means any transmission in one or more geographic areas

1. between or among points the user specifies;
2. of information of the user's choosing;
3. without change in the information's form or content as sent and received;
4. by electromagnetic transmission, including fiber optics, microwave, and satellite;

5. with or without benefit of any closed transmission medium; and
6. including all instrumentalities, facilities, apparatus and services, except customer premises equipment, that are used to collect, store, forward, switch, and deliver such information and are essential to the transmission.

An “interactive computer service” is any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including a service or system that provides Internet access and systems operated or services offered by libraries or educational institutions.

The law against unlawful dissemination of intimate images under the bill and current law cannot be construed to impose liability on any of the above providers for content another person provides.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 40 Nay 0 (04/09/2019)