

2016 New Hampshire Revised Statutes

Title LXII - CRIMINAL CODE

Chapter 644 - BREACHES OF THE PEACE AND RELATED OFFENSES

Section 644:9-a - Nonconsensual Dissemination of Private Sexual Images.

Universal Citation: NH Rev Stat § 644:9-a (2016)

644:9-a Nonconsensual Dissemination of Private Sexual Images. –

I. In this section:

- (a) "Disseminate" means to import, publish, produce, print, manufacture, distribute, sell, lease, exhibit, or display.
- (b) "Image" means a photograph, film, videotape, or digital image or recording.
- (c) "Intimate parts" means the fully unclothed, partially unclothed, or transparently clothed genitals, pubic area, or anus, or, if the person is female, a partially or fully exposed nipple, including exposure through transparent clothing.
- (d) "Sexual act" means sexual penetration, masturbation, or sexual activity.
- (e) "Sexual activity" means any:
 - (1) Knowing touching or fondling by any person, either directly or through clothing, of the sex organs, anus, or breast of that person, or another person, or animal; or
 - (2) Any transfer or transmission of semen upon any part of the clothed or unclothed body of a person; or
 - (3) An act of urination within a sexual context; or
 - (4) Any bondage, fetter, or sadism masochism; or
 - (5) Sadomasochism abuse in any sexual context.

II. A person commits nonconsensual dissemination of private sexual images when he or she:

- (a) Purposely, and with the intent to harass, intimidate, threaten, or coerce the depicted person, disseminates an image of such person:
 - (1) Who is identifiable from the image itself or information displayed in connection with the image; and
 - (2) Who is engaged in a sexual act or whose intimate parts are exposed, in whole or in part; and
- (b) Obtains the image under circumstances in which a reasonable person would know or understand that the person in the image intended that the image was to remain private; and
- (c) Knows or should have known that the person in the image has not consented to the dissemination.

III. The intentional dissemination of an image of another identifiable person who is engaged in a sexual act or whose intimate parts are exposed is exempt from the provision of this section:

- (a) When the dissemination is made for the purpose of a criminal investigation that is otherwise lawful.
- (b) When the dissemination is for the purpose of, or in connection with, the reporting of unlawful conduct.
- (c) When the images involve voluntary exposure in public or commercial settings.
- (d) When the dissemination serves a lawful public purpose.
- (e) When the dissemination is done in compliance with a subpoena or court order.

IV. Nothing in this section shall be construed to impose liability upon the following entities solely as a result of content or information provided by another person:

- (a) An interactive computer service, as defined in 47 U.S.C. section 230(f)(2);
- (b) A provider of public cellular or mobile services or private radio services; or
- (c) A telecommunications network or broadband provider.

V. Any property used in committing, or facilitating the commission of, any offense under this section shall be subject to forfeiture.

VI. Any person who violates the provisions of this section shall be guilty of a class B felony.

Source. 2016, 126:1, eff. July 19, 2016.