



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB4320

by Rep. Scott Drury

SYNOPSIS AS INTRODUCED:

720 ILCS 5/11-46 new
725 ILCS 5/124B-10
725 ILCS 5/124B-500

Amends the Criminal Code of 2012 and the Code of Criminal Procedure of 1963. Creates the offense of sexual exploitation via non-consensual dissemination of a sexual act or intimate parts. Provides that a person commits the offense when he or she: (1) intentionally disseminates an image of another identifiable person who is engaged in a sexual act or whose intimate parts are exposed; and (2) the person knows or should have known the other person has not consented to the disclosure. Provides exemptions. Provides that a violation is a Class 4 felony. Provides that the penalty is a Class 1 felony if the victim, at the time the offense is committed, is a person under 18 years of age or is severally or profoundly mentally retarded or if the violation is committed by a person who is required to register as a sex offender under the Sex Offender Registration Act. Provides for forfeiture of property derived from the proceeds of the offense.

LRB098 16232 RLC 51291 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 2012 is amended by adding
5 Section 11-46 as follows:

6 (720 ILCS 5/11-46 new)

7 Sec. 11-46. Sexual exploitation via non-consensual
8 dissemination of a sexual act or intimate parts.

9 (a) Definitions. For the purposes of this Section:

10 "Computer", "computer program", and "data" have the
11 meanings ascribed to them in Section 17-0.5 of this Code.

12 "Depiction by computer" means a computer program or data
13 that, after being processed by a computer either alone or in
14 conjunction with one or more computer programs, results in a
15 visual depiction on a computer monitor, screen, or display.

16 "Disseminate" means:

17 (1) to sell, distribute, exchange, or transfer
18 possession, with or without consideration; or

19 (2) to make a depiction by computer available for
20 distribution or downloading through the facilities of a
21 telecommunications network or through any other means of
22 transferring computer programs or data to a computer.

23 "Image" includes a photograph, film, videotape, digital

1 recording, or other depiction or portrayal of an object,
2 including a human body.

3 "Intimate parts" means the unclothed genitals, pubic area,
4 buttocks, or if the person is female, an unclothed fully or
5 partially developed breast.

6 "Sexual act" means:

7 (1) masturbation;

8 (2) sexual conduct or sexual penetration as defined in
9 Section 11-0.1 of this Code;

10 (3) any act of lewd fondling, touching, or caressing
11 involving another person or animal; or

12 (4) any act of excretion or urination within a sexual
13 context.

14 (b) A person commits sexual exploitation via
15 non-consensual dissemination of a sexual act or intimate parts
16 when he or she:

17 (1) intentionally disseminates an image of another
18 identifiable person who is engaged in a sexual act or whose
19 intimate parts are exposed; and

20 (2) the person knows or should have known the other
21 person has not consented to the dissemination.

22 (c) Exemptions. The following activities are exempt from
23 the provisions of this Section.

24 (1) The intentional dissemination of an image of
25 another identifiable person who is engaged in a sexual act
26 or whose intimate parts are exposed when the dissemination

1 is made under a criminal investigation that is otherwise
2 lawful.

3 (2) The intentional dissemination of an image of
4 another identifiable person who is engaged in a sexual act
5 or whose intimate parts are exposed when the dissemination
6 is for the purpose of, or in connection with, the reporting
7 of unlawful conduct.

8 (3) The intentional dissemination of an image of
9 another identifiable person who is engaged in a sexual act
10 or whose intimate parts are exposed where the images
11 involve voluntary exposure in public or commercial
12 settings.

13 (4) The intentional dissemination of an image of
14 another identifiable person who is engaged in a sexual act
15 or whose intimate parts are exposed when the dissemination
16 serves a lawful public purpose.

17 (d) Sentence. Sexual exploitation via non-consensual
18 dissemination of a sexual act or intimate parts is a Class 4
19 felony, except sexual exploitation via non-consensual
20 dissemination of a sexual act or intimate parts is a Class 1
21 felony if: (1) the victim, at the time the offense is
22 committed, is a person under 18 years of age or severely or
23 profoundly mentally retarded, or (2) the violation is committed
24 by a person who is required to register as a sex offender under
25 the Sex Offender Registration Act.

26 (e) Forfeiture. A person convicted under this Section is

1 subject to the forfeiture provisions in Article 124B of the
2 Code of Criminal Procedure of 1963.

3 Section 10. The Code of Criminal Procedure of 1963 is
4 amended by changing Sections 124B-10 and 124B-500 as follows:

5 (725 ILCS 5/124B-10)

6 Sec. 124B-10. Applicability; offenses. This Article
7 applies to forfeiture of property in connection with the
8 following:

9 (1) A violation of Section 10-9 or 10A-10 of the
10 Criminal Code of 1961 or the Criminal Code of 2012
11 (involuntary servitude; involuntary servitude of a minor;
12 or trafficking in persons).

13 (2) A violation of subdivision (a)(1) of Section
14 11-14.4 of the Criminal Code of 1961 or the Criminal Code
15 of 2012 (promoting juvenile prostitution) or a violation of
16 Section 11-17.1 of the Criminal Code of 1961 (keeping a
17 place of juvenile prostitution).

18 (3) A violation of subdivision (a)(4) of Section
19 11-14.4 of the Criminal Code of 1961 or the Criminal Code
20 of 2012 (promoting juvenile prostitution) or a violation of
21 Section 11-19.2 of the Criminal Code of 1961 (exploitation
22 of a child).

23 (4) A second or subsequent violation of Section 11-20
24 of the Criminal Code of 1961 or the Criminal Code of 2012

1 (obscenity).

2 (5) A violation of Section 11-20.1 of the Criminal Code
3 of 1961 or the Criminal Code of 2012 (child pornography).

4 (6) A violation of Section 11-20.1B or 11-20.3 of the
5 Criminal Code of 1961 (aggravated child pornography).

6 (6.5) A violation of Section 11-46 of the Criminal Code
7 of 2012.

8 (7) A violation of Section 12C-65 of the Criminal Code
9 of 2012 or Article 44 of the Criminal Code of 1961
10 (unlawful transfer of a telecommunications device to a
11 minor).

12 (8) A violation of Section 17-50 or Section 16D-5 of
13 the Criminal Code of 2012 or the Criminal Code of 1961
14 (computer fraud).

15 (9) A felony violation of Section 17-6.3 or Article 17B
16 of the Criminal Code of 2012 or the Criminal Code of 1961
17 (WIC fraud).

18 (10) A felony violation of Section 48-1 of the Criminal
19 Code of 2012 or Section 26-5 of the Criminal Code of 1961
20 (dog fighting).

21 (11) A violation of Article 29D of the Criminal Code of
22 1961 or the Criminal Code of 2012 (terrorism).

23 (12) A felony violation of Section 4.01 of the Humane
24 Care for Animals Act (animals in entertainment).

25 (Source: P.A. 96-712, eff. 1-1-10; 96-1551, eff. 7-1-11;
26 97-897, eff. 1-1-13; 97-1108, eff. 1-1-13; 97-1109, eff.

1 1-1-13; 97-1150, eff. 1-25-13.)

2 (725 ILCS 5/124B-500)

3 Sec. 124B-500. Persons and property subject to forfeiture.
4 A person who commits ~~the offense of~~ promoting juvenile
5 prostitution, keeping a place of juvenile prostitution,
6 exploitation of a child, child pornography, ~~or~~ aggravated child
7 pornography, or sexual exploitation via non-consensual
8 dissemination of a sexual act or intimate parts under
9 subdivision (a)(1) or (a)(4) of Section 11-14.4 or under
10 Section 11-17.1, 11-19.2, 11-20.1, 11-20.1B, ~~or~~ 11-20.3, or
11 11-46 of the Criminal Code of 1961 or the Criminal Code of 2012
12 shall forfeit the following property to the State of Illinois:

13 (1) Any profits or proceeds and any property the person
14 has acquired or maintained in violation of subdivision
15 (a)(1) or (a)(4) of Section 11-14.4 or in violation of
16 Section 11-17.1, 11-19.2, 11-20.1, 11-20.1B, ~~or~~ 11-20.3, or
17 11-46 of the Criminal Code of 1961 or the Criminal Code
18 of 2012 that the sentencing court determines, after a
19 forfeiture hearing under this Article, to have been
20 acquired or maintained as a result of keeping a place of
21 juvenile prostitution, exploitation of a child, child
22 pornography, ~~or~~ aggravated child pornography, or sexual
23 exploitation via non-consensual dissemination of a sexual
24 act or intimate parts.

25 (2) Any interest in, securities of, claim against, or

1 property or contractual right of any kind affording a
2 source of influence over any enterprise that the person has
3 established, operated, controlled, or conducted in
4 violation of subdivision (a)(1) or (a)(4) of Section
5 11-14.4 or in violation of Section 11-17.1, 11-19.2,
6 11-20.1, 11-20.1B, ~~or~~ 11-20.3, or 11-46 of the Criminal
7 Code of 1961 or the Criminal Code of 2012 that the
8 sentencing court determines, after a forfeiture hearing
9 under this Article, to have been acquired or maintained as
10 a result of keeping a place of juvenile prostitution,
11 exploitation of a child, child pornography, ~~or~~ aggravated
12 child pornography, or sexual exploitation via
13 non-consensual dissemination of a sexual act or intimate
14 parts.

15 (3) Any computer that contains a depiction of child
16 pornography in any encoded or decoded format in violation
17 of Section 11-20.1, 11-20.1B, or 11-20.3 of the Criminal
18 Code of 1961 or the Criminal Code of 2012. For purposes of
19 this paragraph (3), "computer" has the meaning ascribed to
20 it in Section 17-0.5 of the Criminal Code of 2012.

21 (Source: P.A. 96-712, eff. 1-1-10; 96-1551, eff. 7-1-11;
22 97-1150, eff. 1-25-13.)