

## SENATE FLOOR AMENDMENT

Second Reading

BY SENATOR Rodriguez

1 Amend printed bill, page 11, line 10, strike "(2)(j); and substitute "(2)(j)  
2 and (3.5);".

3 Page 12, after line 15, insert:

4        "(3.5) A juvenile's conduct that is limited to the elements of the  
5 petty offense of possession of a ~~private image~~ PRIVATE INTIMATE IMAGE  
6 OR INTIMATE DIGITAL DEPICTION by a juvenile, as described in section  
7 18-7-109 (2), or limited to the elements of the civil infraction of exchange  
8 of a ~~private image~~ PRIVATE INTIMATE IMAGE OR INTIMATE DIGITAL  
9 DEPICTION by a juvenile, as described in section 18-7-109 (3), is not  
10 subject to prosecution pursuant to subsection (3)(b) or (3)(b.5) of this  
11 section.".

12 Page 25, after line 8, insert:

13        **"SECTION 5.** In Colorado Revised Statutes, 19-2.5-103, **amend**  
14 (1)(a)(I) as follows:

15        **19-2.5-103. Jurisdiction.** (1) Except as otherwise provided by  
16 law, the juvenile court has exclusive original jurisdiction in proceedings:

17        (a) Concerning any juvenile ten years of age or older who has  
18 violated:

19        (I) Any federal or state law, except nonfelony state traffic, game  
20 and fish, and parks and recreation laws or rules; the offense specified in  
21 section 18-13-122, concerning the illegal possession or consumption of  
22 ethyl alcohol or marijuana by an underage person or illegal possession of  
23 marijuana paraphernalia by an underage person; the offenses specified in  
24 section 18-18-406 (5)(b)(I) and (5)(b)(II), concerning marijuana and  
25 marijuana concentrate; the offenses specified in section 18-18-434,  
26 concerning natural medicine and natural medicine product; and the civil  
27 infraction in section 18-7-109 (3), concerning exchange of a ~~private~~  
28 ~~image~~ PRIVATE INTIMATE IMAGE OR INTIMATE DIGITAL DEPICTION by a  
29 juvenile;

30        **SECTION 6.** In Colorado Revised Statutes, 18-7-109, **amend** (1),  
31 (2), (3), (4), (5)(a), (5)(b), (5)(c), and (8) as follows:

32        **18-7-109. Disclosure, possession, or exchange of a private**  
33 **intimate image or intimate digital depiction by a juvenile - definitions**  
34 **- penalties.** (1) A juvenile commits the offense of ~~posting a private~~  
35 ~~image by a juvenile if he or she~~ DISCLOSING A PRIVATE INTIMATE IMAGE  
36 OR INTIMATE DIGITAL DEPICTION BY A JUVENILE IF THE JUVENILE, through  
37 digital or electronic means:

38        (a) Knowingly ~~distributes, displays, or publishes~~ DISCLOSES OR

1 THREATENS TO DISCLOSE to the view of another person a ~~sexually explicit~~  
2 ~~image of a person other than himself or herself~~ PRIVATE INTIMATE IMAGE  
3 OR AN INTIMATE DIGITAL DEPICTION OF ANOTHER INDIVIDUAL who is at  
4 least fourteen years of age or is less than four years younger than the  
5 juvenile:

6 (I) Without the depicted ~~person's~~ permission INDIVIDUAL'S  
7 CONSENT; or

8 (II) When the recipient did not solicit or request to be supplied  
9 with the PRIVATE INTIMATE image OR INTIMATE DIGITAL DEPICTION and  
10 suffered emotional distress; or

11 (III) When the juvenile knew or should have known that the  
12 depicted ~~person~~ INDIVIDUAL had a reasonable expectation that the  
13 PRIVATE INTIMATE image OR INTIMATE DIGITAL DEPICTION would remain  
14 private; or

15 (b) Knowingly ~~distributes, displays, or publishes~~ DISCLOSES OR  
16 THREATENS TO DISCLOSE, to the view of another person who is at least  
17 fourteen years of age or is less than four years younger than the juvenile,  
18 a ~~sexually explicit image~~ PRIVATE INTIMATE IMAGE OR INTIMATE DIGITAL  
19 DEPICTION of himself or herself when the recipient did not solicit or  
20 request to be supplied with the image and suffered emotional distress.

21 (2) A juvenile commits the offense of possessing a ~~private image~~  
22 ~~by a juvenile if he or she~~ PRIVATE INTIMATE IMAGE OR INTIMATE DIGITAL  
23 DEPICTION BY A JUVENILE IF THE JUVENILE, through digital or electronic  
24 means, knowingly possesses a ~~sexually explicit image~~ PRIVATE INTIMATE  
25 IMAGE OR INTIMATE DIGITAL DEPICTION of another ~~person~~ INDIVIDUAL  
26 who is at least fourteen years of age or is less than four years younger  
27 than the juvenile without the depicted ~~person's~~ permission INDIVIDUAL'S  
28 CONSENT; except that it is not a violation of this subsection (2) if the  
29 juvenile:

30 (a) Took reasonable steps to either destroy or delete the ~~image~~  
31 PRIVATE INTIMATE IMAGE OR INTIMATE DIGITAL DEPICTION within  
32 seventy-two hours after initially viewing the image OR DEPICTION; or

33 (b) Reported the initial viewing of ~~such image~~ THE IMAGE OR  
34 DEPICTION to law enforcement or a school resource officer within  
35 seventy-two hours after initially viewing the image OR DEPICTION.

36 (3) A juvenile commits the civil infraction of exchange of a  
37 ~~private image~~ PRIVATE INTIMATE IMAGE OR INTIMATE DIGITAL DEPICTION  
38 by a juvenile if ~~he or she~~ THE JUVENILE, through digital or electronic  
39 means:

40 (a) Knowingly sends a ~~sexually explicit image or images~~ A  
41 PRIVATE INTIMATE IMAGE OR INTIMATE DIGITAL DEPICTION of himself or  
42 herself to another person who is at least fourteen years of age or is less  
43 than four years younger than the juvenile, and the image or ~~images~~ depict

1 DEPICTION DEPICTS only the sender and no other person and the sender  
2 reasonably believed that the recipient had solicited or otherwise agreed  
3 to the transmittal of the image or ~~images~~ DEPICTION; or

4 (b) Knowingly possesses a ~~sexually explicit image or images~~  
5 PRIVATE INTIMATE IMAGE OR INTIMATE DIGITAL DEPICTION of another  
6 person who is at least fourteen years of age or is less than four years  
7 younger than the juvenile, and the image or ~~images~~ depict OR DEPICTION  
8 DEPICTS only the sender and no other person and the juvenile reasonably  
9 believed that the depicted ~~person~~ INDIVIDUAL had transmitted the image  
10 or ~~images~~ DEPICTION or otherwise agreed to the transmittal of the image  
11 or ~~images~~ DEPICTION.

12 (4) It is an affirmative defense to subsection (1), (2), or (3) of this  
13 section if a juvenile is coerced, threatened, or intimidated into  
14 ~~distributing, displaying, publishing~~ DISCLOSING, possessing, or  
15 exchanging a ~~sexually explicit image~~ PRIVATE INTIMATE IMAGE OR  
16 INTIMATE DIGITAL DEPICTION of a person under eighteen years of age.

17 (5) (a) ~~Posting a private image~~ DISCLOSING A PRIVATE INTIMATE  
18 IMAGE OR INTIMATE DIGITAL DEPICTION by a juvenile is a class 2  
19 misdemeanor; except that it is a class 1 misdemeanor if:

20 (I) The juvenile committed the offense with the intent to coerce,  
21 intimidate, threaten, or otherwise cause emotional distress to the depicted  
22 ~~person~~ INDIVIDUAL; or

23 (II) The juvenile had previously ~~posted a private image~~ DISCLOSED  
24 A PRIVATE INTIMATE IMAGE OR INTIMATE DIGITAL DEPICTION and  
25 completed a diversion program or education program for the act pursuant  
26 to the provisions of this section or had a prior adjudication for ~~posting a~~  
27 ~~private image~~ DISCLOSING A PRIVATE INTIMATE IMAGE OR INTIMATE  
28 DIGITAL DEPICTION by a juvenile; or

29 (III) The juvenile ~~distributed, displayed, or published~~ DISCLOSED  
30 three or more images OR DEPICTIONS that depicted three or more separate  
31 and distinct ~~persons~~ INDIVIDUALS.

32 (b) Possessing a ~~private image~~ PRIVATE INTIMATE IMAGE OR  
33 INTIMATE DIGITAL DEPICTION by a juvenile is a petty offense; except that  
34 it is a class 2 misdemeanor if the unsolicited possessor of the image OR  
35 DEPICTION possessed ten or more separate images OR DEPICTIONS that  
36 depicted three or more separate and distinct ~~persons~~ INDIVIDUALS.

37 (c) Exchange of a ~~private image~~ PRIVATE INTIMATE IMAGE OR  
38 INTIMATE DIGITAL DEPICTION by a juvenile is a civil infraction and is  
39 punishable by participation in a program designed by the school safety  
40 resource center or other appropriate program addressing the risks and  
41 consequences of exchanging a ~~sexually explicit image~~ PRIVATE INTIMATE  
42 IMAGE OR INTIMATE DIGITAL DEPICTION of a juvenile or a fine of up to  
43 fifty dollars, which may be waived by the court upon a showing of

1 indigency. If the juvenile fails to appear in response to a civil infraction  
2 citation or fails to complete the required class or pay the imposed fee, the  
3 court may issue an order to show cause requiring the juvenile's  
4 appearance in court and impose additional age-appropriate penalties. The  
5 court shall not issue a warrant for the arrest of the juvenile or impose  
6 incarceration as a penalty.

7 (8) As used in this section, unless the context otherwise requires:

8 (a) ~~"Juvenile"~~ means a person under eighteen years of age.

9 (b) ~~"Sexually explicit image"~~ means any electronic or digital  
10 photograph, video, or video depiction of the real or simulated external  
11 genitalia or perineum or anus or buttocks or pubes of any person or the  
12 real or simulated breast of a female person.

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

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

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

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

23 (e) "DIGITAL DEPICTION" MEANS A PHOTOGRAPH, FILM,  
24 VIDEOTAPE, RECORDING, DIGITAL FILE, OR OTHER HIGHLY REALISTIC  
25 VISUAL DEPICTION OF A DEPICTED INDIVIDUAL, WHICH FALSELY APPEARS  
26 TO BE AUTHENTIC OR TRUTHFUL AND WHICH FEATURES A DEPICTION OF AN  
27 INDIVIDUAL APPEARING TO ACT IN A WAY THAT THE INDIVIDUAL DID NOT  
28 ACT, AND WHICH HAS BEEN CREATED, ALTERED, OR PRODUCED BY  
29 DIGITIZATION OR COMPUTER-GENERATED MEANS. "DIGITAL DEPICTION"  
30 DOES NOT INCLUDE HANDMADE DRAWINGS OR CARTOONS.

31 (f) "DIGITIZATION" MEANS CREATING OR ALTERING VISUAL OR  
32 PRINTED MATTER IN A REALISTIC MANNER USING IMAGES OF ANOTHER  
33 PERSON OR COMPUTER-GENERATED IMAGES, REGARDLESS OF WHETHER  
34 THE CREATION OR ALTERATION IS ACCOMPLISHED MANUALLY OR THROUGH  
35 AN AUTOMATED PROCESS. "DIGITIZATION" INCLUDES, BUT IS NOT LIMITED  
36 TO, CREATION OR ALTERATION OF VISUAL OR PRINTED MATTER USING  
37 GENERATIVE AI SOFTWARE.

38 (g) "DISCLOSE" MEANS TO TRANSFER, PUBLISH, DISTRIBUTE, OR  
39 MAKE ACCESSIBLE.

40 (h) "ELECTRONIC MEDIA" MEANS AN ELECTRONIC MEDIUM,  
41 INCLUDING AN INTERACTIVE COMPUTER SERVICE, TELEPHONE NETWORK,  
42 OR DATA NETWORK, THAT ALLOWS USERS TO CREATE, SHARE, AND VIEW  
43 USER-GENERATED CONTENT, INCLUDING, BUT NOT LIMITED TO, VIDEOS,

1 STILL PHOTOGRAPHS, BLOGS, VIDEO BLOGS OR CHATS, LIVE BLOGS OR LIVE  
2 STREAMS, PODCASTS, INSTANT MESSAGES, DIRECT MESSAGES, ELECTRONIC  
3 MAIL, OR INTERNET WEBSITE PROFILES.

4 (i) "GENERATIVE AI" MEANS A SUBSET OF ARTIFICIAL  
5 INTELLIGENCE THAT INVOLVES USING ALGORITHMS AND MODELS TO  
6 GENERATE OR CREATE NEW AND ORIGINAL CONTENT.

7 (j) "IMAGE EDITING SOFTWARE" MEANS A COMPUTER PROGRAM  
8 THAT ALLOWS EDITING, MODIFICATION, OR ALTERATION OF AN IMAGE OR  
9 VIDEO.

10 (k) "INTIMATE DIGITAL DEPICTION" MEANS A DIGITAL DEPICTION  
11 THAT DEPICTS:

12 (I) THE INTIMATE PARTS OF A DEPICTED INDIVIDUAL; OR  
13 (II) A DEPICTED INDIVIDUAL ENGAGING IN SEXUAL ACTS.

14 (l) "JUVENILE" MEANS A PERSON UNDER EIGHTEEN YEARS OF AGE.

15 (m) "PRIVATE INTIMATE IMAGE" MEANS A PHOTOGRAPH, FILM,  
16 VIDEOTAPE, RECORDING, DIGITAL FILE, OR OTHER REPRODUCTION THAT  
17 DEPICTS THE PRIVATE INTIMATE PARTS OF A DEPICTED INDIVIDUAL, OR A  
18 DEPICTED INDIVIDUAL ENGAGING IN SEXUAL ACTS, REGARDLESS OF  
19 WHETHER OR NOT INTIMATE PARTS ARE VISIBLE IN THE IMAGE.

20 (n) "PRIVATE INTIMATE PARTS" MEANS EXTERNAL GENITALIA OR  
21 THE PERINEUM OR THE ANUS OR BUTTOCKS OR THE PUBES OF A PERSON OR  
22 THE BREAST OF A FEMALE.".

23 Renumber succeeding sections accordingly.

24 Page 25, after line 20, insert:

25 **"SECTION 8.** In Colorado Revised Statutes, 24-33.5-1803,  
26 **amend** (3)(m) as follows:

27 **24-33.5-1803. School safety resource center - created - duties.**

28 (3) The center has the following duties:

29 (m) By June 1, 2018, to make available a model program that  
30 conforms with section 22-1-128, regarding the risks and consequences of  
31 sexting for school districts to use, which curriculum must include  
32 information informing students of the provisions of section 18-7-109,  
33 including that, if a student receives a ~~sexually explicit image~~ PRIVATE  
34 INTIMATE IMAGE OR INTIMATE DIGITAL DEPICTION in violation of section  
35 18-7-109, the student can avoid adjudication as a juvenile delinquent by  
36 taking reasonable steps to either destroy or delete or report the initial  
37 viewing of the image OR DEPICTION within seventy-two hours after  
38 receiving the image OR DEPICTION; and".

39 Renumber succeeding section accordingly.

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