



Rep. Anne Stava-Murray

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10300HB3553ham001

LRB103 30436 JRC 70435 a

1 AMENDMENT TO HOUSE BILL 3553

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3553 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the Civil  
5 Liability for Unsolicited Intimate Images Act.

6 Section 5. Definitions. As used in this Act:

7 "Electronic communication device" means (i) any type of  
8 instrument, device, machine, equipment, or software that is  
9 capable of transmitting, acquiring, encrypting, decrypting, or  
10 receiving any signs, signals, writings, images, and sounds or  
11 intelligence of any nature by wire, radio, optical, or other  
12 electromagnetic systems or (ii) any part, accessory, or  
13 component of such an instrument, device, machine, equipment,  
14 or software, including, but not limited to, any computer  
15 circuit, computer chip, security module, smart card,  
16 electronic mechanism, or other component, accessory, or part,

1 that is capable of facilitating the transmission, acquisition,  
2 encryption, decryption, or reception of signs, signals,  
3 writings, images, and sounds or intelligence of any nature by  
4 wire, radio, optical, or other electromagnetic systems.

5 "Emotional distress" means mental suffering, anxiety or  
6 alarm.

7 "Obscene material" means material, including, but not  
8 limited to, images depicting a person engaging in an act of  
9 sexual intercourse, sodomy, oral copulation, sexual  
10 penetration, or masturbation, or depicting the exposed  
11 genitals or anus of any person, taken as a whole, that to the  
12 average person, applying contemporary statewide standards,  
13 appeals to the prurient interest, that, taken as a whole,  
14 depicts or describes sexual conduct in a patently offensive  
15 way, and that, taken as a whole, lacks serious literary,  
16 artistic, political, or scientific value.

17 "Reasonable person" means a person in the plaintiff's  
18 circumstances with the plaintiff's knowledge, or lack of  
19 knowledge, of the defendant and the defendant's prior acts.

20 Section 10. Unsolicited intimate image liability. Any  
21 person 18 years of age or older who knowingly and  
22 intentionally transmits obscene material by computer or other  
23 electronic means to the computer or electronic communication  
24 device of another person 18 years of age or older commits a  
25 trespass and is liable to the recipient of the obscene

1 material for actual damages or \$500, whichever is greater, in  
2 addition to reasonable attorney's fees and costs, if the  
3 person who receives the obscene material has not consented to  
4 the receipt of the obscene material or has expressly forbidden  
5 the receipt of the obscene material and if a reasonable person  
6 who receives the obscene material would suffer emotional  
7 distress as a result of the receipt of the obscene material.  
8 The court may also enjoin and restrain the defendant from  
9 committing such further acts.

10 The remedies provided by this Act are cumulative and shall  
11 not be construed as restricting a remedy that is available  
12 under any other law.

13 Section 15. Application. The provisions of this Act shall  
14 not apply to (i) any Internet service provider, mobile data  
15 provider, or operator of an online or mobile application, to  
16 the extent that such entity is transmitting, routing, or  
17 providing connections for electronic communications initiated  
18 by or at the direction of another, (ii) any service that  
19 transmits material, including an on-demand, subscription, or  
20 advertising-supported service, (iii) a health care provider  
21 that transmits material for a legitimate medical purpose, or  
22 (iv) any transmission of commercial email.

23 Section 20. Venue. Venue for an action under this Act may  
24 lie in the jurisdiction where the obscene material is

1 transmitted from or where the obscene material is received or  
2 possessed by the plaintiff.".