



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB2007

Introduced 2/9/2023, by Sen. Adriane Johnson

SYNOPSIS AS INTRODUCED:

New Act
720 ILCS 5/11-23.6 new

Creates the Obscene Electronic Unsolicited Message Act. Provides that a person may file a private cause of action against another person 18 years of age or older who knowingly sends an image, that the person knows or reasonably should know is unsolicited, by electronic means, depicting obscene material. Provides that a prevailing plaintiff who suffers harm as a result of receiving an image, the receipt of which had been expressly forbidden by the plaintiff, in violation of these provisions, may recover the following: (1) actual damages proximately caused by the receipt of the image, including damages for emotional distress not exceeding \$25,000; (2) attorney's fees; and (3) injunctive relief. Provides that the remedies under these provisions are cumulative and shall not be construed as restricting a remedy that is available under any other law. Provides exemptions. Amends the Criminal Code of 2012. Creates the offense of unsolicited transmission of sexually explicit material. Provides that a person commits the offense when: (1) he or she intentionally transmits by electronic means an image depicting a person engaged in a sexual act or whose intimate parts are exposed, in whole or in part; and (2) the image is not sent at the request of or with the consent of the recipient or the recipient has expressly forbidden receipt of such materials. Provides that nothing in these provisions preclude the imposition of other criminal penalties for that conduct. Provides exemptions. Provides that a violation is a Class C misdemeanor. Provides that a person who commits a third or subsequent violation is guilty of a Class B misdemeanor.

LRB103 27182 RLC 53552 b

1 AN ACT concerning obscene electronic unsolicited messages.

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

4 Section 1. Short title. This Act may be cited as the
5 Obscene Electronic Unsolicited Message Act.

6 Section 5. Definitions. In this Act:

7 "Electronic" means relating to technology having
8 electrical, digital, magnetic, wireless, optical,
9 electromagnetic, or similar capabilities.

10 "Image" includes, but is not limited to, a moving visual
11 image.

12 "Obscene material" has the meaning ascribed to it in
13 subsection (b) of Section 11-20 of the Criminal Code of 2012.

14 "Unsolicited" means the recipient has not consented to or
15 has expressly forbidden the receipt of the image.

16 Section 10. Private cause of action.

17 (a) A person may file a private cause of action against
18 another person 18 years of age or older who knowingly sends an
19 image, that the person knows or reasonably should know is
20 unsolicited, by electronic means, depicting obscene material.

21 (b) A prevailing plaintiff who suffers harm as a result of
22 receiving an image, the receipt of which had been expressly

1 forbidden by the plaintiff, in violation of subsection (a),
2 may recover the following:

3 (1) Actual damages proximately caused by the receipt
4 of the image, including damages for emotional distress not
5 exceeding \$25,000.

6 (2) Attorney's fees.

7 (3) Injunctive relief.

8 (c) The remedies provided in this Section are cumulative
9 and shall not be construed as restricting a remedy that is
10 available under any other law.

11 (d) Nothing in this Section shall be construed to impose
12 liability upon the following entities solely as a result of
13 content or information provided by another person:

14 (1) an interactive computer service, as defined in 47
15 U.S.C. 230(f)(2);

16 (2) a provider of public mobile services or private
17 radio services, as defined in Section 13-214 of the Public
18 Utilities Act; or

19 (3) a telecommunications network or broadband
20 provider.

21 Section 90. The Criminal Code of 2012 is amended by adding
22 Section 11-23.6 as follows:

23 (720 ILCS 5/11-23.6 new)

24 Sec. 11-23.6. Unsolicited transmission of sexually

1 explicit images

2 (a) In this Section:

3 "Electronic" means relating to technology having
4 electrical, digital, magnetic, wireless, optical,
5 electromagnetic, or similar capabilities.

6 "Image" includes a photograph, film, videotape, digital
7 recording, or other depiction or portrayal of an object,
8 including a human body.

9 "Intimate parts" means the fully unclothed, partially
10 unclothed or transparently clothed genitals, pubic area, anus,
11 or if the person is female, a partially or fully exposed
12 nipple, including exposure through transparent clothing.

13 "Sexual act" means masturbation, sexual conduct, or sexual
14 penetration as defined in Section 11-0.1 of this Code.

15 (b) A person commits unsolicited transmission of sexually
16 explicit material when:

17 (1) he or she intentionally transmits by electronic
18 means an image depicting a person engaged in a sexual act
19 or whose intimate parts are exposed, in whole or in part;
20 and

21 (2) the image is not sent at the request of or with the
22 consent of the recipient or the recipient has expressly
23 forbidden receipt of such materials.

24 (c) Nothing in this Section precludes the imposition of
25 other criminal penalties for conduct described in this
26 Section.

1 (d) Nothing in this Section shall be construed to impose
2 criminal liability upon the following entities solely as a
3 result of content or information provided by another person:

4 (1) an interactive computer service, as defined in 47
5 U.S.C. 230(f)(2);

6 (2) a provider of public mobile services or private
7 radio services, as defined in Section 13-214 of the Public
8 Utilities Act; or

9 (3) a telecommunications network or broadband
10 provider.

11 (e) Sentence. Unsolicited transmission of sexually
12 explicit material is a Class C misdemeanor. A person who
13 commits a third or subsequent violation of this Section is
14 guilty of a Class B misdemeanor.