



Rep. Scott Drury

Filed: 3/5/2014

09800HB4320ham001

LRB098 16232 RLC 56256 a

1 AMENDMENT TO HOUSE BILL 4320

2 AMENDMENT NO. _____. Amend House Bill 4320 by replacing
3 everything after the enacting clause with the following:

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:

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

3 (2) to make a depiction by computer available for
4 distribution or downloading through the facilities of a
5 telecommunications network or through any other means of
6 transferring computer programs or data to a computer.

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

10 "Intimate parts" means the unclothed genitals, pubic area,
11 buttocks, or if the person is female, an unclothed fully or
12 partially developed breast.

13 "Sexual act" means:

14 (1) actually or by simulation engaged in any act of
15 sexual penetration or sexual conduct with any person or
16 animal;

17 (2) actually or by simulation engaged in any act of
18 sexual penetration or sexual conduct involving the sex
19 organs of the victim and the mouth, anus, or sex organs of
20 another person or animal; or which involves the mouth,
21 anus, or sex organs of the victim and the sex organs of
22 another person or animal;

23 (3) actually or by simulation engaged in any act of
24 masturbation;

25 (4) actually or by simulation portrayed as being the
26 object of, or otherwise engaged in, any act of lewd

1 fondling, touching, or caressing involving another person
2 or animal;

3 (5) actually or by simulation engaged in any act of
4 excretion or urination within a sexual context;

5 (6) actually or by simulation portrayed or depicted as
6 bound, fettered, or subject to sadistic, masochistic, or
7 sadomasochistic abuse in any sexual context; or

8 (7) depicted or portrayed in any pose, posture, or
9 setting involving a lewd exhibition of the unclothed or
10 transparently clothed genitals, pubic area, buttocks, or,
11 if the person is female, a fully or partially developed
12 breast.

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

16 (1) intentionally disseminates an image of another
17 person:

18 (A) who is at least 18 years of age;

19 (B) who is identifiable from the image itself or
20 information displayed in connection with the image;
21 and

22 (C) who is engaged in a sexual act or whose
23 intimate parts are exposed; and

24 (2) the person disseminating the image:

25 (A) obtained it under circumstances in which a
26 reasonable person would know or understand that the

1 image was to remain private; and

2 (B) knows or should have known that the person in
3 the image has not consented to the dissemination.

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

6 (1) The intentional dissemination of an image of
7 another identifiable person who is engaged in a sexual act
8 or whose intimate parts are exposed when the dissemination
9 is made under a criminal investigation that is otherwise
10 lawful.

11 (2) The intentional dissemination of an image of
12 another identifiable person who is engaged in a sexual act
13 or whose intimate parts are exposed when the dissemination
14 is for the purpose of, or in connection with, the reporting
15 of unlawful conduct.

16 (3) The intentional dissemination of an image of
17 another identifiable person who is engaged in a sexual act
18 or whose intimate parts are exposed where the images
19 involve voluntary exposure in public or commercial
20 settings.

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

25 (d) Service providers. Nothing in this Section shall be
26 construed to impose liability upon the following entities

1 solely as a result of content or information provided by
2 another person:

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

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

7 (3) a telecommunications network provider.

8 (e) Sentence. Sexual exploitation via non-consensual
9 dissemination of a sexual act or intimate parts is a Class 3
10 felony.

11 (f) Forfeiture. A person convicted under this Section is
12 subject to the forfeiture provisions in Article 124B of the
13 Code of Criminal Procedure of 1963.

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

16 (725 ILCS 5/124B-10)

17 Sec. 124B-10. Applicability; offenses. This Article
18 applies to forfeiture of property in connection with the
19 following:

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

24 (2) A violation of subdivision (a)(1) of Section

1 11-14.4 of the Criminal Code of 1961 or the Criminal Code
2 of 2012 (promoting juvenile prostitution) or a violation of
3 Section 11-17.1 of the Criminal Code of 1961 (keeping a
4 place of juvenile prostitution).

5 (3) A violation of subdivision (a)(4) of Section
6 11-14.4 of the Criminal Code of 1961 or the Criminal Code
7 of 2012 (promoting juvenile prostitution) or a violation of
8 Section 11-19.2 of the Criminal Code of 1961 (exploitation
9 of a child).

10 (4) A second or subsequent violation of Section 11-20
11 of the Criminal Code of 1961 or the Criminal Code of 2012
12 (obscenity).

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

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

17 (6.5) A violation of Section 11-46 of the Criminal Code
18 of 2012.

19 (7) A violation of Section 12C-65 of the Criminal Code
20 of 2012 or Article 44 of the Criminal Code of 1961
21 (unlawful transfer of a telecommunications device to a
22 minor).

23 (8) A violation of Section 17-50 or Section 16D-5 of
24 the Criminal Code of 2012 or the Criminal Code of 1961
25 (computer fraud).

26 (9) A felony violation of Section 17-6.3 or Article 17B

1 of the Criminal Code of 2012 or the Criminal Code of 1961
2 (WIC fraud).

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

6 (11) A violation of Article 29D of the Criminal Code of
7 1961 or the Criminal Code of 2012 (terrorism).

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

10 (Source: P.A. 96-712, eff. 1-1-10; 96-1551, eff. 7-1-11;
11 97-897, eff. 1-1-13; 97-1108, eff. 1-1-13; 97-1109, eff.
12 1-1-13; 97-1150, eff. 1-25-13.)

13 (725 ILCS 5/124B-500)

14 Sec. 124B-500. Persons and property subject to forfeiture.
15 A person who commits ~~the offense of~~ promoting juvenile
16 prostitution, keeping a place of juvenile prostitution,
17 exploitation of a child, child pornography, ~~or~~ aggravated child
18 pornography, or sexual exploitation via non-consensual
19 dissemination of a sexual act or intimate parts under
20 subdivision (a)(1) or (a)(4) of Section 11-14.4 or under
21 Section 11-17.1, 11-19.2, 11-20.1, 11-20.1B, ~~or~~ 11-20.3, or
22 11-46 of the Criminal Code of 1961 or the Criminal Code of 2012
23 shall forfeit the following property to the State of Illinois:

24 (1) Any profits or proceeds and any property the person
25 has acquired or maintained in violation of subdivision

1 (a)(1) or (a)(4) of Section 11-14.4 or in violation of
2 Section 11-17.1, 11-19.2, 11-20.1, 11-20.1B, ~~or~~ 11-20.3,
3 or 11-46 of the Criminal Code of 1961 or the Criminal Code
4 of 2012 that the sentencing court determines, after a
5 forfeiture hearing under this Article, to have been
6 acquired or maintained as a result of keeping a place of
7 juvenile prostitution, exploitation of a child, child
8 pornography, ~~or~~ aggravated child pornography, or sexual
9 exploitation via non-consensual dissemination of a sexual
10 act or intimate parts.

11 (2) Any interest in, securities of, claim against, or
12 property or contractual right of any kind affording a
13 source of influence over any enterprise that the person has
14 established, operated, controlled, or conducted in
15 violation of subdivision (a)(1) or (a)(4) of Section
16 11-14.4 or in violation of Section 11-17.1, 11-19.2,
17 11-20.1, 11-20.1B, ~~or~~ 11-20.3, or 11-46 of the Criminal
18 Code of 1961 or the Criminal Code of 2012 that the
19 sentencing court determines, after a forfeiture hearing
20 under this Article, to have been acquired or maintained as
21 a result of keeping a place of juvenile prostitution,
22 exploitation of a child, child pornography, ~~or~~ aggravated
23 child pornography, or sexual exploitation via
24 non-consensual dissemination of a sexual act or intimate
25 parts.

26 (3) Any computer that contains a depiction of child

1 pornography in any encoded or decoded format in violation
2 of Section 11-20.1, 11-20.1B, or 11-20.3 of the Criminal
3 Code of 1961 or the Criminal Code of 2012. For purposes of
4 this paragraph (3), "computer" has the meaning ascribed to
5 it in Section 17-0.5 of the Criminal Code of 2012.

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