

First Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 25-0709.02 Anna Petrini x5497

SENATE BILL 25-288

SENATE SPONSORSHIP

Rodriguez,

HOUSE SPONSORSHIP

(None),

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 CONCERNING PREVENTING CERTAIN DISCLOSURES OF INTIMATE
102 DEPICTIONS, AND, IN CONNECTION THEREWITH, CREATING A
103 CAUSE OF ACTION FOR NONCONSENSUAL DISCLOSURE OF AN
104 INTIMATE DIGITAL DEPICTION AND ADDING AND AMENDING
105 RELATED PROVISIONS IN CRIMINAL LAW.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill creates a cause of action against a person who discloses or threatens to disclose a realistic visual depiction of another individual

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

(depicted individual) that has been created, altered, or produced by generative AI, image editing software, or computer-generated means (intimate digital depiction). A depicted individual who has suffered harm from the nonconsensual disclosure or threatened disclosure of an intimate digital depiction has a cause of action against the person who disclosed or threatened to disclose the intimate digital depiction if the person knew or acted with reckless disregard for whether the depicted individual:

- Did not consent to the disclosure;
- Would experience severe emotional distress due to the disclosure or threatened disclosure; and
- Was identifiable.

The bill provides an exception to civil liability if the disclosure is made in good faith under various circumstances or is related to a matter of public concern.

A successful plaintiff may recover the defendant's monetary gain from the intimate digital depiction; either actual damages or liquidated damages of \$150,000; exemplary damages; and litigation costs, including reasonable attorney fees. A court may also order the defendant to cease disclosure of the intimate digital depiction.

The bill updates the definition of "sexually exploitative material" in the context of the criminal law punishing sexual exploitation of a child to include realistic computer-generated digital depictions that are obscene.

The bill changes the criminal offenses of posting a private image for harassment and posting a private image for pecuniary gain to the related offenses of disclosing a private intimate image or intimate digital depiction for the same purposes. A person commits disclosure of a private intimate image or intimate digital depiction for harassment or for pecuniary gain if the person discloses or threatens to disclose a private intimate image or intimate digital depiction without consent:

- With the intent to harass, intimidate, or coerce the depicted individual, or with the intent to obtain a pecuniary benefit; or
- Knowing, or under circumstances when the person reasonably should have known, that the disclosure or threatened disclosure would cause physical, emotional, reputational, or economic harm to the depicted individual.

Disclosing a private intimate image or intimate digital depiction is a class 1 misdemeanor; except that it is a class 6 felony if the person made the disclosure and the disclosure:

- Affected the conduct of an administrative, legislative, or judicial proceeding of a governmental agency, including the administration of an election; or
- Posed an imminent and serious threat to the safety of the depicted individual or the depicted individual's immediate

1 PRODUCED BY GENERATIVE AI, IMAGE EDITING SOFTWARE, OR
2 COMPUTER-GENERATED MEANS. "DIGITAL DEPICTION" INCLUDES STORED
3 DATA THAT IS CAPABLE OF CONVERSION INTO A VISUAL IMAGE. "DIGITAL
4 DEPICTION" DOES NOT INCLUDE AN IMAGE OF THE DEPICTED INDIVIDUAL
5 CONTEMPORANEOUSLY CAPTURED BY FILM, VIDEO, CAMERA, OR DIGITAL
6 MEANS WITHOUT FURTHER EDITING, CHANGES, ALTERATIONS, OR
7 ADDITIONS OF AN INTIMATE PART OR EXPLICIT SEXUAL CONDUCT NOT
8 OTHERWISE FOUND IN THE ORIGINAL IMAGE OR CAPTURED AT THE TIME OF
9 THE ORIGINAL IMAGE.

10 (5) "DISCLOSE" MEANS TO TRANSFER, PUBLISH, DISTRIBUTE, OR
11 MAKE ACCESSIBLE.

12 (6) "EXPLICIT SEXUAL CONDUCT" MEANS SEXUAL INTERCOURSE,
13 SEXUAL INTRUSION, EROTIC FONDLING, EROTIC NUDITY, MASTURBATION,
14 SADOMASOCHISM, OR SEXUAL EXCITEMENT.

15 (7) "GENERATIVE AI" MEANS A SUBSET OF ARTIFICIAL
16 INTELLIGENCE THAT INVOLVES USING ALGORITHMS AND MODELS TO
17 GENERATE OR CREATE NEW AND ORIGINAL CONTENT.

18 (8) "IMAGE EDITING SOFTWARE" MEANS A COMPUTER PROGRAM
19 THAT ALLOWS EDITING, MODIFICATION, OR ALTERATION OF AN IMAGE OR
20 VIDEO.

21 (9) "INTIMATE DIGITAL DEPICTION" MEANS A DIGITAL DEPICTION
22 THAT DEPICTS:

- 23 (a) THE INTIMATE PARTS OF A DEPICTED INDIVIDUAL;
- 24 (b) SEXUAL CONTACT INVOLVING A DEPICTED INDIVIDUAL; OR
- 25 (c) A DEPICTED INDIVIDUAL ENGAGING IN EXPLICIT SEXUAL
26 CONDUCT.

27 (10) "INTIMATE PARTS" MEANS THE EXTERNAL GENITALIA OR THE

1 PERINEUM OR THE ANUS OR THE BUTTOCKS OR THE PUBES OR THE BREAST
2 OF A PERSON.

3 (11) "RECKLESS DISREGARD" MEANS CONSCIOUSLY DISREGARDING
4 A SUBSTANTIAL AND UNJUSTIFIABLE RISK THAT A RESULT WILL OCCUR OR
5 THAT A CIRCUMSTANCE EXISTS. "RECKLESS DISREGARD" INCLUDES, BUT
6 IS NOT LIMITED TO, CIRCUMSTANCES WHEN A PERSON IS PLACED ON
7 NOTICE, EITHER IMPLICITLY OR EXPLICITLY, THAT THE DISCLOSURE WOULD
8 CAUSE REPUTATIONAL, EMOTIONAL, FINANCIAL, OR PHYSICAL HARM TO
9 THE DEPICTED INDIVIDUAL.

10 (12) "SEXUAL CONTACT" MEANS:

11 (a) THE TOUCHING OF A DEPICTED INDIVIDUAL'S INTIMATE PARTS
12 BY ANOTHER PERSON, OR OF ANOTHER PERSON'S INTIMATE PARTS BY THE
13 DEPICTED INDIVIDUAL, OR THE TOUCHING OF THE CLOTHING COVERING THE
14 IMMEDIATE AREA OF THE DEPICTED INDIVIDUAL OR OTHER PERSON'S
15 INTIMATE PARTS IF THAT SEXUAL CONTACT IS FOR THE PURPOSES OF
16 SEXUAL AROUSAL, GRATIFICATION, OR ABUSE;

17 (b) THE EMISSION OR EJACULATION OF SEMINAL FLUID ONTO A
18 BODY PART OF THE DEPICTED INDIVIDUAL OR THE CLOTHING COVERING A
19 BODY PART OF THE DEPICTED INDIVIDUAL; OR

20 (c) CAUSING SEMEN, BLOOD, URINE, FECES, OR A BODILY
21 SUBSTANCE TO CONTACT A BODY PART OF THE DEPICTED INDIVIDUAL OR
22 THE CLOTHING COVERING A BODY PART OF THE DEPICTED INDIVIDUAL IF
23 THAT CONTACT WITH SEMEN, BLOOD, URINE, FECES, OR A BODILY
24 SUBSTANCE IS FOR THE PURPOSE OF SEXUAL AROUSAL, GRATIFICATION, OR
25 ABUSE.

26 (13) "VOLUNTARY AUTHORIZATION" MEANS AUTHORIZATION
27 PROVIDED IN THE ABSENCE OF FORCE, FRAUD, MISREPRESENTATION,

1 DURESS, OR COERCION.

2 **13-21-1503. Civil action - consent - disclaimers.** (1) EXCEPT AS
3 OTHERWISE PROVIDED IN SECTION 13-21-1504, A DEPICTED INDIVIDUAL
4 WHO IS THE SUBJECT OF AN INTIMATE DIGITAL DEPICTION THAT A PERSON
5 DISCLOSED OR THREATENED TO DISCLOSE WITHOUT THE DEPICTED
6 INDIVIDUAL'S CONSENT AND WHO HAS SUFFERED HARM FROM THE
7 DISCLOSURE OR THREATENED DISCLOSURE OF THE INTIMATE DIGITAL
8 DEPICTION HAS A CAUSE OF ACTION AGAINST THE PERSON WHO DISCLOSED
9 THE INTIMATE DIGITAL DEPICTION IF THE PERSON KNEW OR ACTED WITH
10 RECKLESS DISREGARD FOR WHETHER THE DEPICTED INDIVIDUAL:

11 (a) DID NOT CONSENT TO THE DISCLOSURE;

12 (b) WOULD EXPERIENCE SEVERE EMOTIONAL DISTRESS DUE TO THE
13 DISCLOSURE OR THREATENED DISCLOSURE; AND

14 (c) WAS IDENTIFIABLE.

15 (2) FOR PURPOSES OF AN ACTION BROUGHT PURSUANT TO
16 SUBSECTION (1) OF THIS SECTION:

17 (a) A DEPICTED INDIVIDUAL'S CONSENT TO THE CREATION OF THE
18 INTIMATE DIGITAL DEPICTION DOES NOT ESTABLISH THAT THE DEPICTED
19 INDIVIDUAL CONSENTED TO DISCLOSURE OF THE INTIMATE DIGITAL
20 DEPICTION;

21 (b) A DEPICTED INDIVIDUAL'S CONSENT IS NOT VALID UNLESS THE
22 CONSENT IS SET FORTH IN AN AGREEMENT THAT:

23 (I) IS WRITTEN IN PLAIN LANGUAGE;

24 (II) IS SIGNED KNOWINGLY AND VOLUNTARILY BY THE DEPICTED
25 INDIVIDUAL;

26 (III) INCLUDES A GENERAL DESCRIPTION OF THE INTIMATE DIGITAL
27 DEPICTION;

1 (IV) IDENTIFIES THE SPECIFIC USE OF THE INTIMATE DIGITAL
2 DEPICTION AGREED UPON BETWEEN THE PARTIES, INCLUDING THE
3 PLATFORMS OR LOCATIONS WHERE THE INTIMATE DIGITAL DEPICTION WILL
4 BE PUBLISHED OR OTHERWISE MADE AVAILABLE TO THIRD PARTIES, THE
5 TIME PERIOD DURING WHICH THE INTIMATE DIGITAL DEPICTION WILL BE
6 MADE AVAILABLE TO THIRD PARTIES, AND SECURITY FEATURES
7 CONTAINED WITHIN THE DIGITAL DEPICTION TO PREVENT THEFT OR
8 UNAUTHORIZED COPYING; AND

9 (V) IF APPLICABLE, INCLUDES A GENERAL DESCRIPTION OF THE
10 VISUAL WORK INTO WHICH THE INTIMATE DIGITAL DEPICTION IS
11 INCORPORATED, INCLUDING, BUT NOT LIMITED TO, A MOVIE, TELEVISION
12 SHOW, ARTWORK, PRODUCT, COMIC BOOK, COMPUTER APPLICATION,
13 VISUAL NOVEL, WEB SERIES, ONLINE AVATAR, DATING APPLICATION,
14 COMPUTER GAME, VIDEO GAME, OR CHATBOT; AND

15 (c) PREVIOUS CONSENSUAL DISCLOSURE OF THE INTIMATE DIGITAL
16 DEPICTION THAT IS THE SUBJECT OF THE ACTION DOES NOT, BY ITSELF,
17 ESTABLISH THAT THE DEPICTED INDIVIDUAL CONSENTED TO A SUBSEQUENT
18 DISCLOSURE OF THE INTIMATE DIGITAL DEPICTION.

19 (3) IT IS NOT A DEFENSE TO AN ACTION BROUGHT PURSUANT TO
20 THIS PART 15 THAT THERE IS A DISCLAIMER STATING THAT THE INTIMATE
21 DIGITAL DEPICTION OF THE DEPICTED INDIVIDUAL WAS UNAUTHORIZED OR
22 THAT THE DEPICTED INDIVIDUAL DID NOT PARTICIPATE IN THE CREATION
23 OR DEVELOPMENT OF THE INTIMATE DIGITAL DEPICTION.

24 (4) IN THE CASE OF A DEPICTED INDIVIDUAL WHO IS UNDER
25 EIGHTEEN YEARS OF AGE OR IS INCOMPETENT, INCAPACITATED, OR
26 DECEASED, THE LEGAL GUARDIAN OF THE DEPICTED INDIVIDUAL, ANOTHER
27 FAMILY MEMBER, A REPRESENTATIVE OF THE DEPICTED INDIVIDUAL'S

1 ESTATE, OR ANY OTHER PERSON APPOINTED AS SUITABLE BY THE COURT
2 MAY ASSUME THE DEPICTED INDIVIDUAL'S RIGHTS PURSUANT TO THIS PART
3 15; EXCEPT THAT A DEFENDANT AGAINST WHOM AN ACTION IS BROUGHT
4 PURSUANT TO THIS PART 15 SHALL NOT, IN ANY EVENT, ASSUME THE
5 DEPICTED INDIVIDUAL'S RIGHTS.

6 (5) THIS SECTION IS NOT THE EXCLUSIVE REMEDY FOR A
7 DISCLOSURE OR THREATENED DISCLOSURE OF AN INTIMATE DIGITAL
8 DEPICTION; A PLAINTIFF MAY ALSO BRING ANY OTHER AVAILABLE
9 COMMON LAW OR STATUTORY CLAIMS.

10 **13-21-1504. Exceptions to liability - construction.** (1) (a) A
11 PERSON IS NOT LIABLE UNDER THIS PART 15 IF THE PERSON PROVES THAT
12 DISCLOSURE OF, OR A THREAT TO DISCLOSE, THE INTIMATE DIGITAL
13 DEPICTION WAS:

- 14 (I) MADE IN GOOD FAITH:
15 (A) BY LAW ENFORCEMENT;
16 (B) IN A LEGAL PROCEEDING; OR
17 (C) FOR MEDICAL EDUCATION OR TREATMENT;
18 (II) MADE IN GOOD FAITH IN THE REPORTING OR INVESTIGATION
19 OF:

- 20 (A) UNLAWFUL CONDUCT; OR
21 (B) UNSOLICITED AND UNWELCOME CONDUCT;
22 (III) RELATED TO A MATTER OF PUBLIC CONCERN OR PUBLIC
23 INTEREST; OR
24 (IV) REASONABLY INTENDED TO ASSIST THE DEPICTED
25 INDIVIDUAL.

26 (b) NOTWITHSTANDING THE EXCEPTIONS IN SUBSECTION (1)(a) OF
27 THIS SECTION, A CLAIM OF GOOD FAITH DOES NOT LIMIT LIABILITY FOR A

1 DEFENDANT WHO CREATED, DEVELOPED, OR OTHERWISE MADE THE
2 INTIMATE DIGITAL DEPICTION.

3 (2) IF A DEFENDANT ASSERTS AN EXCEPTION TO LIABILITY
4 PURSUANT TO THIS SECTION, THE EXCEPTION DOES NOT APPLY IF THE
5 PLAINTIFF PROVES BY A PREPONDERANCE OF THE EVIDENCE THAT THE
6 DISCLOSURE WAS:

7 (a) PROHIBITED BY LAW OTHER THAN THIS PART 15; OR

8 (b) MADE, POSSESSED, OR DISTRIBUTED FOR THE PURPOSES OF
9 SEXUAL AROUSAL, SEXUAL GRATIFICATION, HUMILIATION, DEGRADATION,
10 OR MONETARY OR COMMERCIAL GAIN.

11 (3) DISCLOSURE OF, OR A THREAT TO DISCLOSE, AN INTIMATE
12 DIGITAL DEPICTION IS NOT A MATTER OF PUBLIC CONCERN OR PUBLIC
13 INTEREST SOLELY BECAUSE THE DEPICTED INDIVIDUAL IS A PUBLIC FIGURE.

14 (4) NOTHING IN THIS SECTION IMPOSES LIABILITY ON THE
15 PROVIDER OF AN INTERACTIVE COMPUTER SERVICE, AS DEFINED IN 47
16 U.S.C. SEC. 230 (f)(2); AN INFORMATION SERVICE, AS DEFINED IN 47
17 U.S.C. SEC. 153 (24); OR A TELECOMMUNICATIONS SERVICE, AS DEFINED
18 IN 47 U.S.C. SEC. 153 (53), FOR CONTENT PROVIDED BY ANOTHER PERSON.

19 (5) NOTHING IN THIS PART 15 IMPOSES LIABILITY ON THE PROVIDER
20 OF AN INTERACTIVE COMPUTER SERVICE, AS DEFINED IN 47 U.S.C. SEC. 230
21 (f)(2), FOR:

22 (a) AN ACTION THE PROVIDER OF AN INTERACTIVE COMPUTER
23 SERVICE TAKES VOLUNTARILY AND IN GOOD FAITH TO RESTRICT ACCESS TO
24 OR AVAILABILITY OF AN INTIMATE DIGITAL DEPICTION; OR

25 (b) AN ACTION THE PROVIDER OF AN INTERACTIVE COMPUTER
26 SERVICE TAKES TO ENABLE OR MAKE AVAILABLE TO INFORMATION
27 CONTENT PROVIDERS, AS DEFINED IN 47 U.S.C. SEC. 230 (f)(3), OR OTHER

1 PERSONS THE TECHNICAL MEANS TO RESTRICT ACCESS TO AN INTIMATE
2 DIGITAL DEPICTION.

3 (6) THIS PART 15 MUST BE CONSTRUED TO BE CONSISTENT WITH
4 THE FEDERAL "COMMUNICATIONS DECENCY ACT OF 1996", 47 U.S.C. SEC.
5 230.

6 **13-21-1505. Plaintiff privacy.** (1) IN A CIVIL ACTION FILED
7 PURSUANT TO THIS PART 15:

8 (a) A PLAINTIFF MAY PROCEED USING A PSEUDONYM IN PLACE OF
9 THE PLAINTIFF'S TRUE NAME;

10 (b) THE COURT MAY AUTHORIZE AN IN CAMERA PROCEEDING; AND

11 (c) THE COURT MAY MAKE FURTHER ORDERS AS NECESSARY TO
12 PROTECT THE IDENTITY AND PRIVACY OF A PLAINTIFF.

13 **13-21-1506. Remedies.** (1) IN A CIVIL ACTION FILED PURSUANT
14 TO THIS PART 15, A PREVAILING PLAINTIFF MAY RECOVER ALL OF THE
15 FOLLOWING:

16 (a) AN AMOUNT EQUAL TO THE MONETARY GAIN THE DEFENDANT
17 MADE FROM THE CREATION, DEVELOPMENT, OR DISCLOSURE OF THE
18 INTIMATE DIGITAL DEPICTION;

19 (b) EITHER OF THE FOLLOWING, WHICHEVER IS GREATER:

20 (I) THE ACTUAL DAMAGES SUSTAINED BY THE DEPICTED
21 INDIVIDUAL AS A RESULT OF THE INTIMATE DIGITAL DEPICTION'S
22 DISCLOSURE, INCLUDING DAMAGES FOR EMOTIONAL DISTRESS; OR

23 (II) LIQUIDATED DAMAGES OF ONE HUNDRED FIFTY THOUSAND
24 DOLLARS;

25 (c) EXEMPLARY DAMAGES; AND

26 (d) THE COST OF THE ACTION, INCLUDING REASONABLE ATTORNEY
27 FEES AND OTHER LITIGATION COSTS REASONABLY INCURRED.

1 (2) IN A CIVIL ACTION FILED PURSUANT TO THIS PART 15, A COURT
2 MAY, IN ADDITION TO ANY OTHER RELIEF AVAILABLE PURSUANT TO STATE
3 LAW, ORDER EQUITABLE RELIEF, INCLUDING A TEMPORARY RESTRAINING
4 ORDER, A PRELIMINARY INJUNCTION, OR A PERMANENT INJUNCTION
5 ORDERING THE DEFENDANT TO CEASE DISCLOSURE OF THE INTIMATE
6 DIGITAL DEPICTION.

7 **13-21-1507. Rules.** THE ATTORNEY GENERAL MAY ADOPT RULES
8 AS NECESSARY FOR THE PURPOSE OF IMPLEMENTING THIS PART 15.

9 **SECTION 2.** In Colorado Revised Statutes, 18-6-403, **amend**
10 (2)(j); and **add** (2)(b.7), (2)(f.5), (9), and (10) as follows:

11 **18-6-403. Sexual exploitation of a child - legislative declaration**
12 **- definitions.** (2) As used in this section, unless the context otherwise
13 requires:

14 (b.7) "DIGITIZATION" HAS THE SAME MEANING AS IN SECTION
15 18-7-107 (6)(i).

16 (f.5) "OBSCENE" MEANS A VISUAL DEPICTION THAT:

17 (I) THE AVERAGE PERSON, APPLYING CONTEMPORARY COMMUNITY
18 STANDARDS, WOULD FIND THAT, TAKEN AS A WHOLE, APPEALS TO THE
19 PRURIENT INTEREST IN SEX;

20 (II) DEPICTS OR DESCRIBES:

21 (A) PATENTLY OFFENSIVE REPRESENTATIONS OR DESCRIPTIONS OF
22 ULTIMATE SEX ACTS, NORMAL OR PERVERTED, ACTUAL OR SIMULATED,
23 INCLUDING SEXUAL INTERCOURSE, SODOMY, AND SEXUAL BESTIALITY; OR

24 (B) PATENTLY OFFENSIVE REPRESENTATIONS OR DESCRIPTIONS OF
25 MASTURBATION, EXCRETORY FUNCTIONS, SADISM, MASOCHISM, LEWD
26 EXHIBITION OF THE GENITALS, THE GENITALS IN A STATE OF SEXUAL
27 STIMULATION OR AROUSAL, OR THE COVERED PENIS IN A DISCERNIBLY

1 TURGID STATE; AND

2 (III) TAKEN AS A WHOLE, LACKS SERIOUS LITERARY, ARTISTIC,
3 POLITICAL, OR SCIENTIFIC VALUE.

4 (j) "Sexually exploitative material" means: ~~any~~

5 (I) A photograph, motion picture, video, recording or broadcast
6 of moving visual images, live stream, print, negative, slide, or other
7 mechanically, electronically, chemically, or digitally reproduced visual
8 material that depicts a child engaged in, participating in, observing, or
9 being used for explicit sexual conduct; OR

10 (II) A REALISTIC VISUAL DEPICTION OR STORED DATA THAT IS
11 CAPABLE OF CONVERSION INTO A REALISTIC VISUAL DEPICTION, WHETHER
12 CREATED, ALTERED, OR PRODUCED BY DIGITIZATION OR
13 COMPUTER-GENERATED MEANS, THAT IS INDISTINGUISHABLE FROM THAT
14 OF A CHILD ENGAGED IN, PARTICIPATING IN, OBSERVING, OR BEING USED
15 FOR EXPLICIT SEXUAL CONDUCT AND THAT IS OBSCENE.

16 (9) IN A PROSECUTION BROUGHT PURSUANT TO THIS SECTION, THE
17 STATE IS NOT REQUIRED TO ESTABLISH THE IDENTITY OF THE ALLEGED
18 VICTIM.

19 (10) WHEN THE CHARGED OFFENSE INVOLVES SEXUALLY
20 EXPLOITATIVE MATERIAL PURSUANT TO SUBSECTION (2)(j)(II) OF THIS
21 SECTION, IT IS NOT A DEFENSE THAT THE DEFENDANT LACKED KNOWLEDGE
22 OF WHETHER THE REALISTIC VISUAL DEPICTION WAS CREATED, ALTERED,
23 OR PRODUCED BY DIGITIZATION OR COMPUTER-GENERATED MEANS.

24 **SECTION 3.** In Colorado Revised Statutes, 18-7-107, **amend** (1),
25 (2.5), (4)(b), (5), and (6); and **add** (5.5) as follows:

26 **18-7-107. Disclosing a private intimate image or intimate**
27 **digital depiction for harassment - definitions.** (1) (a) An actor who is

1 eighteen years of age or older commits the offense of ~~posting a private~~
2 ~~image~~ DISCLOSING A PRIVATE INTIMATE IMAGE OR INTIMATE DIGITAL
3 DEPICTION for harassment if the actor ~~posts or distributes~~ DISCLOSES OR
4 THREATENS TO DISCLOSE through the use of ~~social~~ ELECTRONIC media or
5 ~~any~~ A website ~~any photograph, video, or other image displaying the real~~
6 ~~or simulated private intimate parts of an identified or identifiable person~~
7 ~~eighteen years of age or older or an image displaying sexual acts of an~~
8 ~~identified or identifiable person~~ A PRIVATE INTIMATE IMAGE OR AN
9 INTIMATE DIGITAL DEPICTION WITHOUT THE DEPICTED INDIVIDUAL'S
10 CONSENT:

11 (I) With the intent to harass, intimidate, or coerce the depicted
12 ~~person~~ INDIVIDUAL; OR

13 (II) ~~(A) Without the depicted person's consent; or~~

14 ~~(B) When the actor knew or should have known that the depicted~~
15 ~~person had a reasonable expectation that the image would remain private;~~
16 ~~and~~

17 ~~(III) The conduct results in serious emotional distress of the~~
18 ~~depicted person.~~

19 (IV) WHEN THE ACTOR KNEW OR REASONABLY SHOULD HAVE
20 KNOWN THAT THE DISCLOSURE WOULD CAUSE PHYSICAL, EMOTIONAL, OR
21 REPUTATIONAL HARM TO THE DEPICTED INDIVIDUAL.

22 (b) ~~Posting a private image~~ DISCLOSING A PRIVATE INTIMATE
23 IMAGE OR INTIMATE DIGITAL DEPICTION for harassment is a class 1
24 misdemeanor; EXCEPT THAT IT IS A CLASS 6 FELONY IF THE ACTOR
25 DISCLOSED THE PRIVATE INTIMATE IMAGE OR INTIMATE DIGITAL DEPICTION
26 AND THE DISCLOSURE:

27 (I) AFFECTED THE CONDUCT OF AN ADMINISTRATIVE, LEGISLATIVE,

1 OR JUDICIAL PROCEEDING OF A GOVERNMENTAL AGENCY, INCLUDING THE
2 ADMINISTRATION OF AN ELECTION; OR

3 (II) POSED AN IMMINENT AND SERIOUS THREAT TO THE DEPICTED
4 INDIVIDUAL'S SAFETY OR THE SAFETY OF THE DEPICTED INDIVIDUAL'S
5 IMMEDIATE FAMILY AND THE ACTOR KNEW OR REASONABLY SHOULD HAVE
6 KNOWN OF THE IMMINENT AND SERIOUS THREAT.

7 (c) Notwithstanding ~~the provisions of section 18-1.3-501 (1)(a)~~
8 SECTION 18-1.3-501 (1)(a.5), in addition to any other sentence the court
9 may impose, the court shall fine the defendant up to ten thousand dollars.
10 The fines collected pursuant to this ~~paragraph (c)~~ shall SUBSECTION (1)(c)
11 MUST be credited to the crime victim compensation fund created in
12 section 24-4.1-117. ~~C.R.S.~~

13 (2.5) It is not a defense to an alleged violation of this section that
14 ~~the image is partially digitally created or altered or that the private~~
15 ~~intimate parts were digitally created or altered~~ THERE IS A DISCLAIMER
16 STATING THAT THE INTIMATE DIGITAL DEPICTION OF THE DEPICTED
17 INDIVIDUAL WAS UNAUTHORIZED OR THAT THE DEPICTED INDIVIDUAL DID
18 NOT PARTICIPATE IN THE CREATION OR DEVELOPMENT OF THE INTIMATE
19 DIGITAL DEPICTION.

20 (4) (b) An individual whose private intimate ~~parts have been~~
21 ~~posted or an individual who has had an image displaying sexual acts of~~
22 ~~the individual posted~~ IMAGE HAS BEEN DISCLOSED in accordance with this
23 section ~~shall retain~~ RETAINS a protectable right of authorship regarding
24 the commercial use of the private INTIMATE image.

25 (5) (a) Nothing in this section ~~shall be construed to impose~~
26 IMPOSES liability on the provider of an interactive computer service, as
27 defined in 47 U.S.C. sec. 230 (f)(2); an information service, as defined in

1 ~~47 U.S.C. sec. 153~~ 47 U.S.C. SEC. 153 (24); or a telecommunications
2 service, as defined in ~~47 U.S.C. sec. 153~~ 47 U.S.C. SEC. 153 (53), for
3 content provided by another person.

4 (b) NOTHING IN THIS SECTION IMPOSES LIABILITY ON THE
5 PROVIDER OF AN INTERACTIVE COMPUTER SERVICE, AS DEFINED IN 47
6 U.S.C. SEC. 230 (f)(2), FOR:

7 (I) AN ACTION THE PROVIDER OF AN INTERACTIVE COMPUTER
8 SERVICE TAKES VOLUNTARILY AND IN GOOD FAITH TO RESTRICT ACCESS TO
9 OR AVAILABILITY OF A PRIVATE INTIMATE IMAGE OR INTIMATE DIGITAL
10 DEPICTION; OR

11 (II) AN ACTION THE PROVIDER OF AN INTERACTIVE COMPUTER
12 SERVICE TAKES TO ENABLE OR MAKE AVAILABLE TO INFORMATION
13 CONTENT PROVIDERS, AS DEFINED IN 47 U.S.C. SEC. 230 (f)(3), OR OTHER
14 PERSONS THE TECHNICAL MEANS TO RESTRICT ACCESS TO A PRIVATE
15 INTIMATE IMAGE OR INTIMATE DIGITAL DEPICTION.

16 (5.5) THIS SECTION DOES NOT APPLY TO A DISCLOSURE OF A
17 PRIVATE INTIMATE IMAGE OR AN INTIMATE DIGITAL DEPICTION IF THE
18 DISCLOSURE WAS MADE IN GOOD FAITH:

19 (a) TO LAW ENFORCEMENT WHILE REPORTING A VIOLATION OF THIS
20 SECTION; OR

21 (b) TO THE COURT, A PARTY, OR A FINDER OF FACT IN A CRIMINAL
22 PROCEEDING BROUGHT PURSUANT TO THIS SECTION.

23 (6) For purposes of this section, unless the context otherwise
24 requires:

25 (a) ~~"Displaying sexual acts" means any display of sexual acts even~~
26 ~~if the private intimate parts are not visible in the image.~~

27 (b) ~~"Image" means a photograph, film, videotape, recording,~~

1 ~~digital file, or other reproduction.~~

2 (c) ~~"Private intimate parts" means external genitalia or the~~
3 ~~perineum or the anus or the pubes of any person or the breast of a female.~~

4 (d) ~~"Sexual acts" means sexual intrusion or sexual penetration as~~
5 ~~defined by section 18-3-401.~~

6 (e) ~~"Social media" means any electronic medium, including an~~
7 ~~interactive computer service, telephone network, or data network, that~~
8 ~~allows users to create, share, and view user-generated content, including~~
9 ~~but not limited to videos, still photographs, blogs, video blogs, podcasts,~~
10 ~~instant messages, electronic mail, or internet website profiles.~~

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

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

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

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

21 (h) "DIGITAL DEPICTION" MEANS A PHOTOGRAPH, FILM,
22 VIDEOTAPE, RECORDING, DIGITAL FILE, OR OTHER REALISTIC VISUAL
23 DEPICTION OF A DEPICTED INDIVIDUAL THAT HAS BEEN CREATED,
24 ALTERED, OR PRODUCED BY DIGITIZATION OR COMPUTER-GENERATED
25 MEANS. "DIGITAL DEPICTION" INCLUDES STORED DATA THAT IS CAPABLE
26 OF CONVERSION INTO A VISUAL IMAGE. "DIGITAL DEPICTION" DOES NOT
27 INCLUDE HANDMADE DRAWINGS OR CARTOONS.

1 (i) "DIGITIZATION" MEANS CREATING OR ALTERING VISUAL OR
2 PRINTED MATTER IN A REALISTIC MANNER USING IMAGES OF ANOTHER
3 PERSON OR COMPUTER-GENERATED IMAGES, REGARDLESS OF WHETHER
4 THE CREATION OR ALTERATION IS ACCOMPLISHED MANUALLY OR THROUGH
5 AN AUTOMATED PROCESS. "DIGITIZATION" INCLUDES, BUT IS NOT LIMITED
6 TO, CREATION OR ALTERATION OF VISUAL OR PRINTED MATTER USING
7 GENERATIVE AI SOFTWARE.

8 (j) "DISCLOSE" MEANS TO TRANSFER, PUBLISH, DISTRIBUTE, OR
9 MAKE ACCESSIBLE.

10 (k) "ELECTRONIC MEDIA" MEANS AN ELECTRONIC MEDIUM,
11 INCLUDING AN INTERACTIVE COMPUTER SERVICE, TELEPHONE NETWORK,
12 OR DATA NETWORK, THAT ALLOWS USERS TO CREATE, SHARE, AND VIEW
13 USER-GENERATED CONTENT, INCLUDING, BUT NOT LIMITED TO, VIDEOS,
14 STILL PHOTOGRAPHS, BLOGS, VIDEO BLOGS OR CHATS, LIVE BLOGS OR LIVE
15 STREAMS, PODCASTS, INSTANT MESSAGES, DIRECT MESSAGES, ELECTRONIC
16 MAIL, OR INTERNET WEBSITE PROFILES.

17 (l) "EXPLICIT SEXUAL CONDUCT" MEANS SEXUAL INTERCOURSE,
18 SEXUAL INTRUSION, EROTIC FONDLING, EROTIC NUDITY, MASTURBATION,
19 SADOMASOCHISM, OR SEXUAL EXCITEMENT.

20 (m) "GENERATIVE AI" MEANS A SUBSET OF ARTIFICIAL
21 INTELLIGENCE THAT INVOLVES USING ALGORITHMS AND MODELS TO
22 GENERATE OR CREATE NEW AND ORIGINAL CONTENT.

23 (n) "IMAGE EDITING SOFTWARE" MEANS A COMPUTER PROGRAM
24 THAT ALLOWS EDITING, MODIFICATION, OR ALTERATION OF AN IMAGE OR
25 VIDEO.

26 (o) "INTIMATE DIGITAL DEPICTION" MEANS A DIGITAL DEPICTION
27 THAT DEPICTS:

- 1 (I) THE INTIMATE PARTS OF A DEPICTED INDIVIDUAL;
2 (II) SEXUAL CONTACT WITH A DEPICTED INDIVIDUAL; OR
3 (III) A DEPICTED INDIVIDUAL ENGAGING IN EXPLICIT SEXUAL
4 CONDUCT.

5 (p) "PRIVATE INTIMATE IMAGE" MEANS A PHOTOGRAPH, FILM,
6 VIDEOTAPE, RECORDING, DIGITAL FILE, OR OTHER REPRODUCTION THAT
7 DEPICTS THE PRIVATE INTIMATE PARTS OF A DEPICTED INDIVIDUAL,
8 SEXUAL CONTACT BY A PERSON WITH A DEPICTED INDIVIDUAL, OR A
9 DEPICTED INDIVIDUAL ENGAGING IN EXPLICIT SEXUAL CONDUCT,
10 REGARDLESS OF WHETHER OR NOT INTIMATE PARTS ARE VISIBLE IN THE
11 IMAGE.

12 (q) "PRIVATE INTIMATE PARTS" MEANS EXTERNAL GENITALIA OR
13 THE PERINEUM OR THE ANUS OR THE PUBES OF A PERSON OR THE BREAST
14 OF A FEMALE.

15 (r) "SEXUAL CONTACT" MEANS:

16 (I) THE TOUCHING OF A DEPICTED INDIVIDUAL'S INTIMATE PARTS
17 BY ANOTHER PERSON, OR OF THE OTHER PERSON'S INTIMATE PARTS BY THE
18 DEPICTED INDIVIDUAL, OR THE TOUCHING OF THE CLOTHING COVERING THE
19 IMMEDIATE AREA OF THE DEPICTED INDIVIDUAL OR OTHER PERSON'S
20 INTIMATE PARTS IF THAT SEXUAL CONTACT IS FOR THE PURPOSES OF
21 SEXUAL AROUSAL, GRATIFICATION, OR ABUSE;

22 (II) THE EMISSION OR EJACULATION OF SEMINAL FLUID ONTO A
23 BODY PART OF THE DEPICTED INDIVIDUAL OR THE CLOTHING COVERING A
24 BODY PART OF THE DEPICTED INDIVIDUAL; OR

25 (III) CAUSING SEMEN, BLOOD, URINE, FECES, OR A BODILY
26 SUBSTANCE TO CONTACT A BODY PART OF THE DEPICTED INDIVIDUAL OR
27 THE CLOTHING COVERING A BODY PART OF THE DEPICTED INDIVIDUAL IF

1 THAT CONTACT WITH SEMEN, BLOOD, URINE, FECES, OR A BODILY
2 SUBSTANCE IS FOR THE PURPOSE OF SEXUAL AROUSAL, GRATIFICATION, OR
3 ABUSE.

4 **SECTION 4.** In Colorado Revised Statutes, 18-7-108, **amend** (1),
5 (2.5), (4)(b), (5), and (6); and **add** (5.5) as follows:

6 **18-7-108. Disclosing a private intimate image or intimate**
7 **digital depiction for pecuniary gain - definitions.** (1) (a) An actor who
8 is eighteen years of age or older commits the offense of ~~posting a private~~
9 ~~image~~ DISCLOSING A PRIVATE INTIMATE IMAGE OR INTIMATE DIGITAL
10 DEPICTION for pecuniary gain if the actor ~~posts or distributes~~ DISCLOSES
11 OR THREATENS TO DISCLOSE through ~~social~~ ELECTRONIC media or ~~any~~ A
12 website ~~any photograph, video, or other image displaying the real or~~
13 ~~simulated private intimate parts of an identified or identifiable person~~
14 ~~eighteen years of age or older or an image displaying sexual acts of an~~
15 ~~identified or identifiable person~~ A PRIVATE INTIMATE IMAGE OR INTIMATE
16 DIGITAL DEPICTION WITHOUT THE DEPICTED INDIVIDUAL'S CONSENT:

17 (I) With the intent to obtain a pecuniary benefit from ~~any~~ A person
18 as a result of the ~~posting, viewing, or removal~~ DISCLOSURE, THREATENED
19 DISCLOSURE, OR RETRACTION of the private INTIMATE image ~~and~~ OR
20 INTIMATE DIGITAL DEPICTION; OR

21 (II) ~~(A) When the actor has not obtained the depicted person's~~
22 ~~consent; or~~

23 ~~(B) When the actor knew or REASONABLY should have known that~~
24 ~~the depicted person had a reasonable expectation that the image would~~
25 ~~remain private~~ DISCLOSURE OR THREATENED DISCLOSURE WOULD CAUSE
26 FINANCIAL HARM TO THE DEPICTED INDIVIDUAL.

27 (b) ~~Posting a private image~~ DISCLOSING A PRIVATE INTIMATE

1 IMAGE OR INTIMATE DIGITAL DEPICTION for pecuniary gain is a class 1
2 misdemeanor; EXCEPT THAT IT IS A CLASS 6 FELONY IF THE ACTOR
3 DISCLOSED THE PRIVATE INTIMATE IMAGE OR INTIMATE DIGITAL DEPICTION
4 AND THE DISCLOSURE:

5 (I) AFFECTED THE CONDUCT OF AN ADMINISTRATIVE, LEGISLATIVE,
6 OR JUDICIAL PROCEEDING OF A GOVERNMENTAL AGENCY, INCLUDING THE
7 ADMINISTRATION OF AN ELECTION; OR

8 (II) POSED AN IMMINENT AND SERIOUS THREAT TO THE DEPICTED
9 INDIVIDUAL'S SAFETY OR THE SAFETY OF THE DEPICTED INDIVIDUAL'S
10 IMMEDIATE FAMILY AND THE ACTOR KNEW OR REASONABLY SHOULD HAVE
11 KNOWN OF THE IMMINENT AND SERIOUS THREAT.

12 (c) Notwithstanding ~~the provisions of section 18-1.3-501 (1)(a)~~
13 SECTION 18-1.3-501 (1)(a.5), in addition to any other sentence the court
14 may impose, the court shall fine the defendant up to ten thousand dollars.
15 The fines collected pursuant to this ~~paragraph (c)~~ shall SUBSECTION (1)(c)
16 MUST be credited to the crime victim compensation fund created in
17 section 24-4.1-117. ~~C.R.S.~~

18 (2.5) It is not a defense to an alleged violation of this section that
19 ~~the image is partially digitally created or altered or that the private~~
20 ~~intimate parts were digitally created or altered~~ THERE IS A DISCLAIMER
21 STATING THAT THE INTIMATE DIGITAL DEPICTION OF THE DEPICTED
22 INDIVIDUAL WAS UNAUTHORIZED OR THAT THE DEPICTED INDIVIDUAL DID
23 NOT PARTICIPATE IN THE CREATION OR DEVELOPMENT OF THE INTIMATE
24 DIGITAL DEPICTION.

25 (4) (b) An individual whose private intimate ~~parts have been~~
26 ~~posted or an individual who has had an image displaying sexual acts of~~
27 ~~the individual posted~~ IMAGE HAS BEEN DISCLOSED in accordance with this

1 section ~~shall retain~~ RETAINS a protectable right of authorship regarding
2 the commercial use of the private INTIMATE image.

3 (5) (a) Nothing in this section ~~shall be construed to impose~~
4 IMPOSES liability on the provider of an interactive computer service, as
5 defined in 47 U.S.C. sec. 230 (f)(2); an information service, as defined in
6 ~~47 U.S.C. sec. 153~~ 47 U.S.C. SEC. 153 (24); or a telecommunications
7 service, as defined in ~~47 U.S.C. sec. 153~~ 47 U.S.C. SEC. 153 (53), for
8 content provided by another person.

9 (b) NOTHING IN THIS SECTION IMPOSES LIABILITY ON THE
10 PROVIDER OF AN INTERACTIVE COMPUTER SERVICE, AS DEFINED IN 47
11 U.S.C. SEC. 230 (f)(2), FOR:

12 (I) AN ACTION THE PROVIDER OF AN INTERACTIVE COMPUTER
13 SERVICE TAKES VOLUNTARILY AND IN GOOD FAITH TO RESTRICT ACCESS TO
14 OR AVAILABILITY OF A PRIVATE INTIMATE IMAGE OR INTIMATE DIGITAL
15 DEPICTION; OR

16 (II) AN ACTION THE PROVIDER OF AN INTERACTIVE COMPUTER
17 SERVICE TAKES TO ENABLE OR MAKE AVAILABLE TO INFORMATION
18 CONTENT PROVIDERS, AS DEFINED IN 47 U.S.C. SEC. 230 (f)(3), OR OTHER
19 PERSONS THE TECHNICAL MEANS TO RESTRICT ACCESS TO A PRIVATE
20 INTIMATE IMAGE OR INTIMATE DIGITAL DEPICTION.

21 (5.5) THIS SECTION DOES NOT APPLY TO A DISCLOSURE OF A
22 PRIVATE INTIMATE IMAGE OR AN INTIMATE DIGITAL DEPICTION IF THE
23 DISCLOSURE WAS MADE IN GOOD FAITH:

24 (a) TO LAW ENFORCEMENT WHILE REPORTING A VIOLATION OF THIS
25 SECTION; OR

26 (b) TO THE COURT, A PARTY, OR A FINDER OF FACT IN A CRIMINAL
27 PROCEEDING BROUGHT PURSUANT TO THIS SECTION.

1 (6) For purposes of this section, unless the context otherwise
2 requires:

3 (a) ~~"Displaying sexual acts" means any display of sexual acts even~~
4 ~~if the private intimate parts are not visible in the image.~~

5 (b) ~~"Image" means a photograph, film, videotape, recording,~~
6 ~~digital file, or other reproduction.~~

7 (c) ~~"Private intimate parts" means external genitalia or the~~
8 ~~perineum or the anus or the pubes of any person or the breast of a female.~~

9 (d) ~~"Sexual acts" means sexual intrusion or sexual penetration as~~
10 ~~defined by section 18-3-401.~~

11 (e) ~~"Social media" means any electronic medium, including an~~
12 ~~interactive computer service, telephone network, or data network, that~~
13 ~~allows users to create, share, and view user-generated content, including~~
14 ~~but not limited to videos, still photographs, blogs, video blogs, podcasts,~~
15 ~~instant messages, electronic mail, or internet website profiles.~~

16 (f) "COMPUTER-GENERATED" MEANS CREATED, DEVELOPED,
17 MADE, OR PRODUCED BY DIGITAL SOFTWARE, INCLUDING, BUT NOT
18 LIMITED TO, PHONE APPLICATIONS AND IMAGE EDITING SOFTWARE.

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

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

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

26 (h) "DIGITAL DEPICTION" MEANS A PHOTOGRAPH, FILM,
27 VIDEOTAPE, RECORDING, DIGITAL FILE, OR OTHER REALISTIC VISUAL

1 DEPICTION OF A DEPICTED INDIVIDUAL THAT HAS BEEN CREATED,
2 ALTERED, OR PRODUCED BY DIGITIZATION OR COMPUTER-GENERATED
3 MEANS. "DIGITAL DEPICTION" INCLUDES STORED DATA THAT IS CAPABLE
4 OF CONVERSION INTO A VISUAL IMAGE. "DIGITAL DEPICTION" DOES NOT
5 INCLUDE HANDMADE DRAWINGS OR CARTOONS.

6 (i) "DIGITIZATION" MEANS CREATING OR ALTERING VISUAL OR
7 PRINTED MATTER IN A REALISTIC MANNER USING IMAGES OF ANOTHER
8 PERSON OR COMPUTER-GENERATED IMAGES, REGARDLESS OF WHETHER
9 THE CREATION OR ALTERATION IS ACCOMPLISHED MANUALLY OR THROUGH
10 AN AUTOMATED PROCESS. "DIGITIZATION" INCLUDES, BUT IS NOT LIMITED
11 TO, CREATION OR ALTERATION OF VISUAL OR PRINTED MATTER USING
12 GENERATIVE AI SOFTWARE.

13 (j) "DISCLOSE" MEANS TO TRANSFER, PUBLISH, DISTRIBUTE, OR
14 MAKE ACCESSIBLE.

15 (k) "ELECTRONIC MEDIA" MEANS AN ELECTRONIC MEDIUM,
16 INCLUDING AN INTERACTIVE COMPUTER SERVICE, TELEPHONE NETWORK,
17 OR DATA NETWORK, THAT ALLOWS USERS TO CREATE, SHARE, AND VIEW
18 USER-GENERATED CONTENT, INCLUDING, BUT NOT LIMITED TO, VIDEOS,
19 STILL PHOTOGRAPHS, BLOGS, VIDEO BLOGS OR CHATS, LIVE BLOGS OR LIVE
20 STREAMS, PODCASTS, INSTANT MESSAGES, DIRECT MESSAGES, ELECTRONIC
21 MAIL, OR INTERNET WEBSITE PROFILES.

22 (l) "EXPLICIT SEXUAL CONDUCT" MEANS SEXUAL INTERCOURSE,
23 SEXUAL INTRUSION, EROTIC FONDLING, EROTIC NUDITY, MASTURBATION,
24 SADOMASOCHISM, OR SEXUAL EXCITEMENT.

25 (m) "GENERATIVE AI" MEANS A SUBSET OF ARTIFICIAL
26 INTELLIGENCE THAT INVOLVES USING ALGORITHMS AND MODELS TO
27 GENERATE OR CREATE NEW AND ORIGINAL CONTENT.

1 (n) "IMAGE EDITING SOFTWARE" MEANS A COMPUTER PROGRAM
2 THAT ALLOWS EDITING, MODIFICATION, OR ALTERATION OF AN IMAGE OR
3 VIDEO.

4 (o) "INTIMATE DIGITAL DEPICTION" MEANS A DIGITAL DEPICTION
5 THAT DEPICTS:

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7 (II) SEXUAL CONTACT WITH A DEPICTED INDIVIDUAL; OR

8 (III) A DEPICTED INDIVIDUAL ENGAGING IN EXPLICIT SEXUAL
9 CONDUCT.

10 (p) "PRIVATE INTIMATE IMAGE" MEANS A PHOTOGRAPH, FILM,
11 VIDEOTAPE, RECORDING, DIGITAL FILE, OR OTHER REPRODUCTION THAT
12 DEPICTS THE PRIVATE INTIMATE PARTS OF A DEPICTED INDIVIDUAL,
13 SEXUAL CONTACT BY A PERSON WITH A DEPICTED INDIVIDUAL, OR A
14 DEPICTED INDIVIDUAL ENGAGING IN EXPLICIT SEXUAL CONDUCT,
15 REGARDLESS OF WHETHER OR NOT INTIMATE PARTS ARE VISIBLE IN THE
16 IMAGE.

17 (q) "PRIVATE INTIMATE PARTS" MEANS EXTERNAL GENITALIA OR
18 THE PERINEUM OR THE ANUS OR THE PUBES OF ANY PERSON OR THE
19 BREAST OF A FEMALE.

20 (r) "SEXUAL CONTACT" MEANS:

21 (I) THE TOUCHING OF A DEPICTED INDIVIDUAL'S INTIMATE PARTS
22 BY ANOTHER PERSON, OR OF THE OTHER PERSON'S INTIMATE PARTS BY THE
23 DEPICTED INDIVIDUAL, OR THE TOUCHING OF THE CLOTHING COVERING THE
24 IMMEDIATE AREA OF THE DEPICTED INDIVIDUAL OR OTHER PERSON'S
25 INTIMATE PARTS IF THAT SEXUAL CONTACT IS FOR THE PURPOSES OF
26 SEXUAL AROUSAL, GRATIFICATION, OR ABUSE;

27 (II) THE EMISSION OR EJACULATION OF SEMINAL FLUID ONTO A

1 BODY PART OF THE DEPICTED INDIVIDUAL OR THE CLOTHING COVERING A
2 BODY PART OF THE DEPICTED INDIVIDUAL; OR

3 (III) CAUSING SEMEN, BLOOD, URINE, FECES, OR A BODILY
4 SUBSTANCE TO CONTACT A BODY PART OF THE DEPICTED INDIVIDUAL OR
5 THE CLOTHING COVERING A BODY PART OF THE DEPICTED INDIVIDUAL IF
6 THAT CONTACT WITH SEMEN, BLOOD, URINE, FECES, OR A BODILY
7 SUBSTANCE IS FOR THE PURPOSE OF SEXUAL AROUSAL, GRATIFICATION, OR
8 ABUSE.

9 **SECTION 5.** In Colorado Revised Statutes, 24-4.1-302, **amend**
10 (1)(mm) as follows:

11 **24-4.1-302. Definitions.** As used in this part 3, and for no other
12 purpose, including the expansion of the rights of any defendant:

13 (1) "Crime" means any of the following offenses, acts, and
14 violations as defined by the statutes of the state of Colorado, whether
15 committed by an adult or a juvenile:

16 (mm) ~~Posting a private image~~ DISCLOSING A PRIVATE INTIMATE
17 IMAGE OR INTIMATE DIGITAL DEPICTION for harassment in violation of
18 section 18-7-107 or ~~posting a private image~~ DISCLOSING A PRIVATE
19 INTIMATE IMAGE OR INTIMATE DIGITAL DEPICTION for pecuniary gain in
20 violation of section 18-7-108;

21 **SECTION 6. Act subject to petition - effective date -**
22 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
23 the expiration of the ninety-day period after final adjournment of the
24 general assembly; except that, if a referendum petition is filed pursuant
25 to section 1 (3) of article V of the state constitution against this act or an
26 item, section, or part of this act within such period, then the act, item,
27 section, or part will not take effect unless approved by the people at the

1 general election to be held in November 2026 and, in such case, will take
2 effect on the date of the official declaration of the vote thereon by the
3 governor.

4 (2) Sections 2, 3, 4, and 5 of this act apply to offenses committed
5 on or after the applicable effective date of this act.