

**First Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 25-0709.02 Anna Petrini x5497

SENATE BILL 25-288

SENATE SPONSORSHIP

Rodriguez, Bridges, Coleman, Cutter, Exum, Hinrichsen, Jodeh, Kipp, Michaelson Jenet, Mullica, Roberts, Snyder, Wallace

HOUSE SPONSORSHIP

Titone and Soper,

Senate Committees
Judiciary

House Committees
Judiciary

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.

SENATE
3rd Reading Unamended
April 29, 2025

SENATE
Amended 2nd Reading
April 28, 2025

(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 DIGITAL OR COMPUTER-GENERATED MEANS, APPEARS IN WHOLE OR IN
2 PART IN AN INTIMATE DIGITAL DEPICTION AND WHO IS IDENTIFIABLE BY
3 VIRTUE OF THE INDIVIDUAL'S FACE, LIKENESS, OR OTHER DISTINGUISHING
4 CHARACTERISTIC, INCLUDING A UNIQUE BIRTHMARK OR OTHER
5 RECOGNIZABLE FEATURE, OR FROM INFORMATION ANOTHER PERSON
6 DISPLAYS IN CONNECTION WITH THE DIGITAL DEPICTION.

7 (5) "DIGITAL DEPICTION" MEANS A HIGHLY REALISTIC VISUAL
8 DEPICTION OF A DEPICTED INDIVIDUAL THAT FALSELY APPEARS TO BE
9 AUTHENTIC OR TRUTHFUL, FEATURES A DEPICTION OF AN INDIVIDUAL
10 APPEARING TO ACT IN A WAY THAT THE INDIVIDUAL DID NOT ACT, AND HAS
11 BEEN CREATED, ALTERED, OR PRODUCED BY GENERATIVE AI, IMAGE
12 EDITING SOFTWARE, OR COMPUTER-GENERATED MEANS. "DIGITAL
13 DEPICTION" INCLUDES STORED DATA THAT IS CAPABLE OF CONVERSION
14 INTO A VISUAL IMAGE. "DIGITAL DEPICTION" DOES NOT INCLUDE AN IMAGE
15 OF THE DEPICTED INDIVIDUAL CONTEMPORANEOUSLY CAPTURED BY FILM,
16 VIDEO, CAMERA, OR DIGITAL MEANS WITHOUT FURTHER EDITING,
17 CHANGES, ALTERATIONS, OR ADDITIONS OF AN INTIMATE PART OR EXPLICIT
18 SEXUAL CONDUCT NOT OTHERWISE FOUND IN THE ORIGINAL IMAGE OR
19 CAPTURED AT THE TIME OF THE ORIGINAL IMAGE.

20 (6) "DISCLOSE" MEANS TO TRANSFER, PUBLISH, DISTRIBUTE, OR
21 MAKE ACCESSIBLE.

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

25 (8) "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 (9) "IMAGE EDITING SOFTWARE" MEANS A COMPUTER PROGRAM
2 THAT ALLOWS EDITING, MODIFICATION, OR ALTERATION OF AN IMAGE OR
3 VIDEO.

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

- 6 (a) THE INTIMATE PARTS OF A DEPICTED INDIVIDUAL;
- 7 (b) SEXUAL CONTACT INVOLVING A DEPICTED INDIVIDUAL; OR
- 8 (c) A DEPICTED INDIVIDUAL ENGAGING IN EXPLICIT SEXUAL
9 CONDUCT.

10 (11) "INTIMATE PARTS" MEANS THE EXTERNAL GENITALIA OR THE
11 PERINEUM OR THE ANUS OR THE BUTTOCKS OR THE PUBES OR THE BREAST
12 OF A PERSON.

13 (12) "RECKLESS DISREGARD" MEANS CONSCIOUSLY DISREGARDING
14 A SUBSTANTIAL AND UNJUSTIFIABLE RISK THAT A RESULT WILL OCCUR OR
15 THAT A CIRCUMSTANCE EXISTS. "RECKLESS DISREGARD" INCLUDES, BUT
16 IS NOT LIMITED TO, CIRCUMSTANCES WHEN A PERSON IS PLACED ON
17 NOTICE, EITHER IMPLICITLY OR EXPLICITLY, THAT THE DISCLOSURE WOULD
18 CAUSE REPUTATIONAL, EMOTIONAL, FINANCIAL, OR PHYSICAL HARM TO
19 THE DEPICTED INDIVIDUAL.

20 (13) "SEXUAL CONTACT" MEANS:

- 21 (a) THE TOUCHING OF A DEPICTED INDIVIDUAL'S INTIMATE PARTS
22 BY ANOTHER PERSON, OR OF ANOTHER 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 (b) 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 (c) 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 (14) "VOLUNTARY AUTHORIZATION" MEANS AUTHORIZATION
10 PROVIDED IN THE ABSENCE OF FORCE, FRAUD, MISREPRESENTATION,
11 DURESS, OR COERCION.

12 **13-21-1503. Civil action - consent - disclaimers.** (1) EXCEPT AS
13 OTHERWISE PROVIDED IN SECTION 13-21-1504, A DEPICTED INDIVIDUAL
14 WHO IS THE SUBJECT OF AN INTIMATE DIGITAL DEPICTION THAT A PERSON
15 DISCLOSED OR THREATENED TO DISCLOSE WITHOUT THE DEPICTED
16 INDIVIDUAL'S CONSENT AND WHO HAS SUFFERED HARM FROM THE
17 DISCLOSURE OR THREATENED DISCLOSURE OF THE INTIMATE DIGITAL
18 DEPICTION HAS A CAUSE OF ACTION AGAINST THE PERSON WHO DISCLOSED
19 THE INTIMATE DIGITAL DEPICTION IF THE PERSON KNEW OR ACTED WITH
20 RECKLESS DISREGARD FOR WHETHER THE DEPICTED INDIVIDUAL:

- 21 (a) DID NOT CONSENT TO THE DISCLOSURE;
- 22 (b) WOULD EXPERIENCE SEVERE EMOTIONAL DISTRESS DUE TO THE
23 DISCLOSURE OR THREATENED DISCLOSURE; AND
- 24 (c) WAS IDENTIFIABLE.

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

- 27 (a) A DEPICTED INDIVIDUAL'S CONSENT TO THE CREATION OF THE

1 INTIMATE DIGITAL DEPICTION DOES NOT ESTABLISH THAT THE DEPICTED
2 INDIVIDUAL CONSENTED TO DISCLOSURE OF THE INTIMATE DIGITAL
3 DEPICTION;

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

6 (I) IS WRITTEN IN PLAIN LANGUAGE;

7 (II) IS SIGNED KNOWINGLY AND VOLUNTARILY BY THE DEPICTED
8 INDIVIDUAL;

9 (III) INCLUDES A GENERAL DESCRIPTION OF THE INTIMATE DIGITAL
10 DEPICTION;

11 (IV) IDENTIFIES THE SPECIFIC USE OF THE INTIMATE DIGITAL
12 DEPICTION AGREED UPON BETWEEN THE PARTIES, INCLUDING THE
13 PLATFORMS OR LOCATIONS WHERE THE INTIMATE DIGITAL DEPICTION WILL
14 BE PUBLISHED OR OTHERWISE MADE AVAILABLE TO THIRD PARTIES, THE
15 TIME PERIOD DURING WHICH THE INTIMATE DIGITAL DEPICTION WILL BE
16 MADE AVAILABLE TO THIRD PARTIES, AND SECURITY FEATURES
17 CONTAINED WITHIN THE DIGITAL DEPICTION TO PREVENT THEFT OR
18 UNAUTHORIZED COPYING; AND

19 (V) IF APPLICABLE, INCLUDES A GENERAL DESCRIPTION OF THE
20 VISUAL WORK INTO WHICH THE INTIMATE DIGITAL DEPICTION IS
21 INCORPORATED, INCLUDING, BUT NOT LIMITED TO, A MOVIE, TELEVISION
22 SHOW, ARTWORK, PRODUCT, COMIC BOOK, COMPUTER APPLICATION,
23 VISUAL NOVEL, WEB SERIES, ONLINE AVATAR, DATING APPLICATION,
24 COMPUTER GAME, VIDEO GAME, OR CHATBOT; AND

25 (c) PREVIOUS CONSENSUAL DISCLOSURE OF THE INTIMATE DIGITAL
26 DEPICTION THAT IS THE SUBJECT OF THE ACTION DOES NOT, BY ITSELF,
27 ESTABLISH THAT THE DEPICTED INDIVIDUAL CONSENTED TO A SUBSEQUENT

1 DISCLOSURE OF THE INTIMATE DIGITAL DEPICTION.

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

7 (4) IN THE CASE OF A DEPICTED INDIVIDUAL WHO IS UNDER
8 EIGHTEEN YEARS OF AGE OR IS INCOMPETENT, INCAPACITATED, OR
9 DECEASED, THE LEGAL GUARDIAN OF THE DEPICTED INDIVIDUAL, ANOTHER
10 FAMILY MEMBER, A REPRESENTATIVE OF THE DEPICTED INDIVIDUAL'S
11 ESTATE, OR ANY OTHER PERSON APPOINTED AS SUITABLE BY THE COURT
12 MAY ASSUME THE DEPICTED INDIVIDUAL'S RIGHTS PURSUANT TO THIS PART
13 15; EXCEPT THAT A DEFENDANT AGAINST WHOM AN ACTION IS BROUGHT
14 PURSUANT TO THIS PART 15 SHALL NOT, IN ANY EVENT, ASSUME THE
15 DEPICTED INDIVIDUAL'S RIGHTS.

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

20 **13-21-1504. Exceptions to liability - construction.** (1) (a) A
21 PERSON IS NOT LIABLE UNDER THIS PART 15 IF THE PERSON PROVES THAT
22 DISCLOSURE OF, OR A THREAT TO DISCLOSE, THE INTIMATE DIGITAL
23 DEPICTION WAS:

24 (I) MADE IN GOOD FAITH:

25 (A) TO LAW ENFORCEMENT; OR

26 (B) IN A LEGAL PROCEEDING; ==

27 ==

- 1 (II) MADE IN GOOD FAITH IN THE REPORTING OR INVESTIGATION
2 OF:
3 (A) UNLAWFUL CONDUCT; OR
4 (B) UNSOLICITED AND UNWELCOME CONDUCT;
5 (III) RELATED TO A MATTER OF PUBLIC CONCERN OR PUBLIC
6 INTEREST; OR
7 (IV) REASONABLY INTENDED TO ASSIST THE DEPICTED
8 INDIVIDUAL.

9 (b) NOTWITHSTANDING THE EXCEPTIONS IN SUBSECTION (1)(a) OF
10 THIS SECTION, A CLAIM OF GOOD FAITH DOES NOT LIMIT LIABILITY FOR A
11 DEFENDANT WHO CREATED, DEVELOPED, OR OTHERWISE MADE THE
12 INTIMATE DIGITAL DEPICTION.

13 (2) IF A DEFENDANT ASSERTS AN EXCEPTION TO LIABILITY
14 PURSUANT TO THIS SECTION, THE EXCEPTION DOES NOT APPLY IF THE
15 PLAINTIFF PROVES BY A PREPONDERANCE OF THE EVIDENCE THAT THE
16 DISCLOSURE WAS:

- 17 (a) PROHIBITED BY LAW OTHER THAN THIS PART 15; OR
18 (b) MADE, POSSESSED, OR DISTRIBUTED FOR THE PURPOSES OF
19 SEXUAL AROUSAL, SEXUAL GRATIFICATION, HUMILIATION, DEGRADATION,
20 OR MONETARY OR COMMERCIAL GAIN.

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

24 (4) THIS PART 15 DOES NOT APPLY TO MEDIA CONTENT THAT
25 CONSTITUTES SATIRE OR PARODY, OR TO MEDIA CONTENT, THE
26 PRODUCTION OF WHICH IS SUBSTANTIALLY DEPENDENT ON THE ABILITY OF
27 A PERSON TO PHYSICALLY OR VERBALLY IMPERSONATE A DEPICTED

1 INDIVIDUAL AND NOT UPON COMPUTER-GENERATED MEANS.

2 (5) THIS PART 15 DOES NOT APPLY TO THE PROVIDER OF
3 TECHNOLOGY USED IN THE CREATION OF AN INTIMATE DIGITAL DEPICTION.

4 (6) 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); AN INFORMATION SERVICE, AS DEFINED IN 47
7 U.S.C. SEC. 153 (24); OR A TELECOMMUNICATIONS SERVICE, AS DEFINED
8 IN 47 U.S.C. SEC. 153 (53), FOR CONTENT PROVIDED BY ANOTHER PERSON.

9 (7) NOTHING IN THIS PART 15 IMPOSES LIABILITY ON THE PROVIDER
10 OF AN INTERACTIVE COMPUTER SERVICE, AS DEFINED IN 47 U.S.C. SEC. 230
11 (f)(2), FOR:

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

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

20 (8) (a) NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART
21 15, A BROADCASTER IS NOT LIABLE PURSUANT TO THIS PART 15 SOLELY
22 FOR THE BROADCAST, REBROADCAST, OR PUBLICATION OF THIRD-PARTY
23 CONTENT THAT CONTAINS OR IS ALLEGED TO CONTAIN AN INTIMATE
24 DIGITAL DEPICTION IF THE BROADCASTER:

25 (I) DID NOT CREATE, ALTER, OR MATERIALLY CONTRIBUTE TO THE
26 DEVELOPMENT OF THE INTIMATE DIGITAL DEPICTION;

27 (II) LACKED ACTUAL KNOWLEDGE THAT THE CONTENT WAS AN

1 INTIMATE DIGITAL DEPICTION THAT THE DEPICTED INDIVIDUAL DID NOT
2 CONSENT TO HAVE DISCLOSED; AND

3 (III) UPON OBTAINING THE ACTUAL KNOWLEDGE DESCRIBED IN
4 SUBSECTION (8)(a)(II) OF THIS SECTION, ACTED PROMPTLY AND IN GOOD
5 FAITH TO REMOVE, CEASE FURTHER DISSEMINATION OF, OR OTHERWISE
6 LIMIT ACCESS TO THE CONTENT, WHEN REASONABLY FEASIBLE.

7 (b) THIS SUBSECTION (8) DOES NOT LIMIT LIABILITY IF A
8 BROADCASTER KNOWINGLY OR RECKLESSLY BROADCASTS, PUBLISHES, OR
9 DISTRIBUTES CONTENT IN VIOLATION OF THIS PART 15, OR FAILS TO
10 RESPOND TO A VALID REQUEST TO REMOVE THE MATERIAL.

11 (9) THIS PART 15 MUST BE CONSTRUED TO BE CONSISTENT WITH
12 THE FEDERAL "COMMUNICATIONS DECENCY ACT OF 1996", 47 U.S.C. SEC.
13 230.

14 **13-21-1505. Plaintiff privacy.** (1) IN A CIVIL ACTION FILED
15 PURSUANT TO THIS PART 15:

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

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

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

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

24 (a) AN AMOUNT EQUAL TO THE MONETARY GAIN THE DEFENDANT
25 MADE FROM THE CREATION, DEVELOPMENT, OR DISCLOSURE OF THE
26 INTIMATE DIGITAL DEPICTION;

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

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

4 (II) LIQUIDATED DAMAGES OF ONE HUNDRED FIFTY THOUSAND
5 DOLLARS;

6 (c) EXEMPLARY DAMAGES; AND

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

9 (2) IN A CIVIL ACTION FILED PURSUANT TO THIS PART 15, A COURT
10 MAY, IN ADDITION TO ANY OTHER RELIEF AVAILABLE PURSUANT TO STATE
11 LAW, ORDER EQUITABLE RELIEF, INCLUDING A TEMPORARY RESTRAINING
12 ORDER, A PRELIMINARY INJUNCTION, OR A PERMANENT INJUNCTION
13 ORDERING THE DEFENDANT TO CEASE DISCLOSURE OF THE INTIMATE
14 DIGITAL DEPICTION.

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

17 **SECTION 2.** In Colorado Revised Statutes, 18-6-403, **amend** (1),
18 (1.5), (2)(j), and (3.5); and **add** (2)(b.7), (2)(e.3), (9), and (10) as follows:

19 **18-6-403. Sexual exploitation of a child - legislative**
20 **declaration - definitions.** (1) The general assembly hereby finds and
21 declares: That the sexual exploitation of children constitutes a wrongful
22 invasion of the child's right of privacy and results in social,
23 developmental, and emotional injury to the child; that a child below the
24 age of eighteen years is incapable of giving informed consent to the use
25 of ~~his or her~~ THE CHILD'S body for a sexual purpose OR TO THE USE OF ALL
26 OR PART OF THE CHILD'S IMAGE TO CREATE SEXUALLY EXPLOITATIVE
27 MATERIAL; and that to protect children from sexual exploitation it is

1 necessary to prohibit the production of material which involves or is
2 derived from such exploitation and to exclude all such material from the
3 channels of trade and commerce.

4 (1.5) The general assembly further finds and declares that the
5 mere possession or control of any sexually exploitative material results in
6 continuing victimization of our children by the fact that such material is
7 a permanent record of an act or acts of sexual abuse of a child; THAT THE
8 CREATION OR THE MERE POSSESSION OR CONTROL OF
9 COMPUTER-GENERATED MATERIAL OR DIGITAL DEPICTIONS USING ALL OR
10 PART OF THE IMAGE OF A CHILD IN SEXUALLY EXPLOITATIVE MATERIAL
11 RESULTS IN THE VICTIMIZATION OF OUR CHILDREN; that each time such
12 material is shown or viewed, the child is harmed; that such material is
13 used to break down the will and resistance of other children to encourage
14 them to participate in similar acts of sexual abuse; that laws banning the
15 production and distribution of such material are insufficient to halt this
16 abuse; that in order to stop the sexual exploitation and abuse of our
17 children, it is necessary for the state to ban the possession of any sexually
18 exploitative materials; and that the state has a compelling interest in
19 outlawing the possession of any sexually exploitative materials in order
20 to protect society as a whole, and particularly the privacy, health, and
21 emotional welfare of its children.

22 (2) As used in this section, unless the context otherwise requires:

23 (b.7) "DIGITIZATION" HAS THE SAME MEANING AS IN SECTION
24 18-7-107 (6)(i).

25
26 (e.3) "IDENTIFIABLE CHILD" MEANS A PERSON WHO:
27 (I) WAS UNDER THE AGE OF EIGHTEEN AT THE TIME A REALISTIC

1 VISUAL DEPICTION OF THE PERSON WAS CREATED, PRODUCED, OR ALTERED
2 OR A PERSON WHOSE IMAGE IS USED TO CREATE OR PRODUCE A REALISTIC
3 VISUAL DEPICTION OR WHOSE IMAGE IS ALTERED TO BE A REALISTIC
4 VISUAL DEPICTION, AND WHO WAS UNDER THE AGE OF EIGHTEEN AT THE
5 TIME THE IMAGE WAS CAPTURED; AND

6 (II) IS IDENTIFIABLE BY VIRTUE OF THE INDIVIDUAL'S FACE,
7 LIKENESS, OR OTHER DISTINGUISHING CHARACTERISTIC, INCLUDING A
8 UNIQUE BIRTHMARK OR OTHER RECOGNIZABLE FEATURE.

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

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

15 (II) A REALISTIC VISUAL DEPICTION, WHICH HAS BEEN CREATED,
16 ALTERED, OR PRODUCED BY DIGITIZATION OR COMPUTER-GENERATED
17 MEANS, THAT DEPICTS AN IDENTIFIABLE CHILD, IN WHOLE OR IN PART,
18 ENGAGED IN, PARTICIPATING IN, OBSERVING, OR BEING USED FOR EXPLICIT
19 SEXUAL CONDUCT.

20 (3.5) A juvenile's conduct that is limited to the elements of the
21 petty offense of possession of a ~~private image~~ PRIVATE INTIMATE IMAGE
22 OR INTIMATE DIGITAL DEPICTION by a juvenile, as described in section
23 18-7-109 (2), or limited to the elements of the civil infraction of exchange
24 of a ~~private image~~ PRIVATE INTIMATE IMAGE OR INTIMATE DIGITAL
25 DEPICTION by a juvenile, as described in section 18-7-109 (3), is not
26 subject to prosecution pursuant to subsection (3)(b) or (3)(b.5) of this
27 section.

1 (9) A PROSECUTION BROUGHT PURSUANT TO THIS SECTION DOES
2 NOT REQUIRE PROOF OF THE ACTUAL IDENTITY OF AN IDENTIFIABLE CHILD.

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

8 **SECTION 3.** In Colorado Revised Statutes, 18-7-107, **amend** (1),
9 (2.5), (4)(b), (5), and (6); and **add** (5.5) as follows:

10 **18-7-107. Disclosing a private intimate image or intimate**
11 **digital depiction for harassment - definitions.** (1) (a) An actor who is
12 eighteen years of age or older commits the offense of ~~posting a private~~
13 ~~image~~ DISCLOSING A PRIVATE INTIMATE IMAGE OR INTIMATE DIGITAL
14 DEPICTION for harassment if the actor ~~posts or distributes~~ DISCLOSES OR
15 THREATENS TO DISCLOSE through the use of ~~social~~ ELECTRONIC media or
16 ~~any~~ A website ~~any photograph, video, or other image displaying the real~~
17 ~~or simulated private intimate parts of an identified or identifiable person~~
18 ~~eighteen years of age or older or an image displaying sexual acts of an~~
19 ~~identified or identifiable person~~ A PRIVATE INTIMATE IMAGE OR AN
20 INTIMATE DIGITAL DEPICTION WITHOUT THE DEPICTED INDIVIDUAL'S
21 CONSENT:

22 (I) ~~With the intent to harass, intimidate, or coerce the depicted~~
23 ~~person;~~

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

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

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

3 (IV) (A) WITH THE INTENT TO HARASS, INTIMIDATE, OR COERCE
4 THE DEPICTED INDIVIDUAL; OR

5 (B) WHEN THE ACTOR KNEW OR REASONABLY SHOULD HAVE
6 KNOWN THAT THE DEPICTED INDIVIDUAL HAD A REASONABLE
7 EXPECTATION THAT THE PRIVATE INTIMATE IMAGE OR INTIMATE DIGITAL
8 DEPICTION WOULD REMAIN PRIVATE; AND

9 (V) THE DISCLOSURE OR THREAT TO DISCLOSE CAUSED PHYSICAL,
10 EMOTIONAL, OR REPUTATIONAL HARM TO THE DEPICTED INDIVIDUAL.

11 (b) ~~Posting a private image~~ DISCLOSING A PRIVATE INTIMATE
12 IMAGE OR INTIMATE DIGITAL DEPICTION for harassment is a class 1
13 misdemeanor; EXCEPT THAT IT IS A CLASS 6 FELONY IF THE ACTOR
14 DISCLOSED THE PRIVATE INTIMATE IMAGE OR INTIMATE DIGITAL DEPICTION
15 AND THE DISCLOSURE POSED AN IMMINENT AND SERIOUS THREAT TO THE
16 DEPICTED INDIVIDUAL'S SAFETY OR THE SAFETY OF THE DEPICTED
17 INDIVIDUAL'S IMMEDIATE FAMILY AND THE ACTOR KNEW OR REASONABLY
18 SHOULD HAVE KNOWN OF THE IMMINENT AND SERIOUS THREAT.

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

25 (2.5) It is not a defense to an alleged violation of this section that
26 ~~the image is partially digitally created or altered or that the private~~
27 ~~intimate parts were digitally created or altered~~ THERE IS A DISCLAIMER

1 STATING THAT THE INTIMATE DIGITAL DEPICTION OF THE DEPICTED
2 INDIVIDUAL WAS UNAUTHORIZED OR THAT THE DEPICTED INDIVIDUAL DID
3 NOT PARTICIPATE IN THE CREATION OR DEVELOPMENT OF THE INTIMATE
4 DIGITAL DEPICTION.

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

10 (5) (a) Nothing in this section ~~shall be construed to impose~~
11 IMPOSES liability on the provider of an interactive computer service, as
12 defined in 47 U.S.C. sec. 230 (f)(2); an information service, as defined in
13 ~~47 U.S.C. sec. 153~~ 47 U.S.C. SEC. 153 (24); or a telecommunications
14 service, as defined in ~~47 U.S.C. sec. 153~~ 47 U.S.C. SEC. 153 (53), for
15 content provided by another person.

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

19 (I) AN ACTION THE PROVIDER OF AN INTERACTIVE COMPUTER
20 SERVICE TAKES VOLUNTARILY AND IN GOOD FAITH TO RESTRICT ACCESS TO
21 OR AVAILABILITY OF A PRIVATE INTIMATE IMAGE OR INTIMATE DIGITAL
22 DEPICTION; OR

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

1 (5.5) THIS SECTION DOES NOT APPLY TO A DISCLOSURE OF A
2 PRIVATE INTIMATE IMAGE OR AN INTIMATE DIGITAL DEPICTION IF THE
3 DISCLOSURE WAS MADE IN GOOD FAITH:

4 (a) TO LAW ENFORCEMENT WHILE REPORTING A VIOLATION OF THIS
5 SECTION; OR

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

8 (6) For purposes of this section, unless the context otherwise
9 requires:

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

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

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

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

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

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

26 (g) "DEPICTED INDIVIDUAL" MEANS AN INDIVIDUAL WHO IS
27 EIGHTEEN YEARS OF AGE OR OLDER AND WHO IS IDENTIFIABLE BY VIRTUE

1 OF THE INDIVIDUAL'S FACE, LIKENESS, OR OTHER DISTINGUISHING
2 CHARACTERISTIC, INCLUDING A UNIQUE BIRTHMARK OR OTHER
3 RECOGNIZABLE FEATURE, AND WHO:

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

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

7 (h) "DIGITAL DEPICTION" MEANS A PHOTOGRAPH, FILM,
8 VIDEOTAPE, RECORDING, DIGITAL FILE, OR OTHER HIGHLY REALISTIC
9 VISUAL DEPICTION OF A DEPICTED INDIVIDUAL THAT FALSELY APPEARS TO
10 BE AUTHENTIC OR TRUTHFUL, FEATURES A DEPICTION OF AN INDIVIDUAL
11 APPEARING TO ACT IN A WAY THAT THE INDIVIDUAL DID NOT ACT, AND HAS
12 BEEN CREATED, ALTERED, OR PRODUCED BY DIGITIZATION OR
13 COMPUTER-GENERATED MEANS. "DIGITAL DEPICTION" DOES NOT
14 INCLUDE HANDMADE DRAWINGS OR CARTOONS.

15 (i) "DIGITIZATION" MEANS CREATING OR ALTERING VISUAL OR
16 PRINTED MATTER IN A REALISTIC MANNER USING IMAGES OF ANOTHER
17 PERSON OR COMPUTER-GENERATED IMAGES, REGARDLESS OF WHETHER
18 THE CREATION OR ALTERATION IS ACCOMPLISHED MANUALLY OR THROUGH
19 AN AUTOMATED PROCESS. "DIGITIZATION" INCLUDES, BUT IS NOT LIMITED
20 TO, CREATION OR ALTERATION OF VISUAL OR PRINTED MATTER USING
21 GENERATIVE AI SOFTWARE.

22 (j) "DISCLOSE" MEANS TO TRANSFER, PUBLISH, DISTRIBUTE, OR
23 MAKE ACCESSIBLE.

24 (k) "ELECTRONIC MEDIA" MEANS AN ELECTRONIC MEDIUM,
25 INCLUDING AN INTERACTIVE COMPUTER SERVICE, TELEPHONE NETWORK,
26 OR DATA NETWORK, THAT ALLOWS USERS TO CREATE, SHARE, AND VIEW
27 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

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

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

11 (n) "INTIMATE DIGITAL DEPICTION" MEANS A DIGITAL DEPICTION
12 THAT DEPICTS:

13 (I) THE INTIMATE PARTS OF A DEPICTED INDIVIDUAL; OR

14 (II) SEXUAL ACTS OF A DEPICTED INDIVIDUAL.

15 (o) "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
18 A DEPICTED INDIVIDUAL ENGAGING IN SEXUAL ACTS REGARDLESS OF
19 WHETHER OR NOT INTIMATE PARTS ARE VISIBLE IN THE IMAGE.

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

23 (q) "SEXUAL ACTS" MEANS SEXUAL INTRUSION OR SEXUAL
24 PENETRATION AS DEFINED BY SECTION 18-3-401.

25 **SECTION 4.** In Colorado Revised Statutes, 18-7-108, **amend** (1),
26 (2.5), (4)(b), (5), and (6); and **add** (5.5) as follows:

27 **18-7-108. Disclosing a private intimate image or intimate**

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

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

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

17 ~~(B) When the actor knew or REASONABLY should have known~~
18 ~~that: the depicted person had a reasonable expectation that the image~~
19 ~~would remain private.~~

20 (A) THE DEPICTED INDIVIDUAL HAD A REASONABLE EXPECTATION
21 THAT THE PRIVATE INTIMATE IMAGE OR INTIMATE DIGITAL DEPICTION
22 WOULD REMAIN PRIVATE; AND

23 (B) THE DISCLOSURE WOULD CAUSE FINANCIAL HARM TO THE
24 DEPICTED INDIVIDUAL.

25 (b) ~~Posting a private image~~ DISCLOSING A PRIVATE INTIMATE
26 IMAGE OR INTIMATE DIGITAL DEPICTION for pecuniary gain is a class 1
27 misdemeanor; EXCEPT THAT IT IS A CLASS 6 FELONY IF THE ACTOR

1 DISCLOSED THE PRIVATE INTIMATE IMAGE OR INTIMATE DIGITAL DEPICTION
2 ~~AND THE DISCLOSURE POSED AN IMMINENT AND SERIOUS THREAT TO~~
3 ~~THE DEPICTED~~ INDIVIDUAL'S SAFETY OR THE SAFETY OF THE DEPICTED
4 INDIVIDUAL'S IMMEDIATE FAMILY AND THE ACTOR KNEW OR REASONABLY
5 SHOULD HAVE KNOWN OF THE IMMINENT AND SERIOUS THREAT.

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

12 (2.5) It is not a defense to an alleged violation of this section that
13 ~~the image is partially digitally created or altered or that the private~~
14 ~~intimate parts were digitally created or altered~~ THERE IS A DISCLAIMER
15 STATING THAT THE INTIMATE DIGITAL DEPICTION OF THE DEPICTED
16 INDIVIDUAL WAS UNAUTHORIZED OR THAT THE DEPICTED INDIVIDUAL DID
17 NOT PARTICIPATE IN THE CREATION OR DEVELOPMENT OF THE INTIMATE
18 DIGITAL DEPICTION.

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

24 (5) (a) Nothing in this section ~~shall be construed to impose~~
25 IMPOSES liability on the provider of an interactive computer service, as
26 defined in 47 U.S.C. sec. 230 (f)(2); an information service, as defined in
27 ~~47 U.S.C. sec. 153~~ 47 U.S.C. SEC. 153 (24); or a telecommunications

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

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

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

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

15 (5.5) THIS SECTION DOES NOT APPLY TO A DISCLOSURE OF A
16 PRIVATE INTIMATE IMAGE OR AN INTIMATE DIGITAL DEPICTION IF THE
17 DISCLOSURE WAS MADE IN GOOD FAITH:

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

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

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

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

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

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

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

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

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

13 (g) "DEPICTED INDIVIDUAL" MEANS AN INDIVIDUAL WHO IS
14 EIGHTEEN YEARS OF AGE OR OLDER AND WHO IS IDENTIFIABLE BY VIRTUE
15 OF THE INDIVIDUAL'S FACE, LIKENESS, OR OTHER DISTINGUISHING
16 CHARACTERISTIC, INCLUDING A UNIQUE BIRTHMARK OR OTHER
17 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 HIGHLY REALISTIC
23 VISUAL DEPICTION OF A DEPICTED INDIVIDUAL THAT FALSELY APPEARS TO
24 BE AUTHENTIC OR TRUTHFUL, FEATURES A DEPICTION OF AN INDIVIDUAL
25 APPEARING TO ACT IN A WAY THAT THE INDIVIDUAL DID NOT ACT, AND HAS
26 BEEN CREATED, ALTERED, OR PRODUCED BY DIGITIZATION OR
27 COMPUTER-GENERATED MEANS. "DIGITAL DEPICTION" DOES NOT

1 INCLUDE HANDMADE DRAWINGS OR CARTOONS.

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

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

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

18

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

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

25 (n) "INTIMATE DIGITAL DEPICTION" MEANS A DIGITAL DEPICTION
26 THAT DEPICTS:

27 (I) THE INTIMATE PARTS OF A DEPICTED INDIVIDUAL; OR

1 (II) SEXUAL ACTS OF A DEPICTED INDIVIDUAL.

2 (o) "PRIVATE INTIMATE IMAGE" MEANS A PHOTOGRAPH, FILM,
3 VIDEOTAPE, RECORDING, DIGITAL FILE, OR OTHER REPRODUCTION THAT
4 DEPICTS THE PRIVATE INTIMATE PARTS OF A DEPICTED INDIVIDUAL, OR
5 A DEPICTED INDIVIDUAL ENGAGING IN SEXUAL ACTS, REGARDLESS OF
6 WHETHER OR NOT INTIMATE PARTS ARE VISIBLE IN THE IMAGE.

7 (p) "PRIVATE INTIMATE PARTS" MEANS EXTERNAL GENITALIA OR
8 THE PERINEUM OR THE ANUS OR THE PUBES OF ANY PERSON OR THE
9 BREAST OF A FEMALE.

10 (q) "SEXUAL ACTS" MEANS SEXUAL INTRUSION OR SEXUAL
11 PENETRATION AS DEFINED BY SECTION 18-3-401.

12 **SECTION 5. In Colorado Revised Statutes, 19-2.5-103, amend**

13 (1)(a)(I) as follows:

14 **19-2.5-103. Jurisdiction.** (1) Except as otherwise provided by
15 law, the juvenile court has exclusive original jurisdiction in proceedings:

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

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

1 juvenile:

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

4 18-7-109. Disclosure, possession, or exchange of a private
5 intimate image or intimate digital depiction by a juvenile - definitions
6 - penalties. (1) A juvenile commits the offense of ~~posting a private~~
7 image by a juvenile if he or she DISCLOSING A PRIVATE INTIMATE IMAGE
8 OR INTIMATE DIGITAL DEPICTION BY A JUVENILE IF THE JUVENILE, through
9 digital or electronic means:

10 (a) ~~Knowingly distributes, displays, or publishes~~ DISCLOSES OR
11 THREATENS TO DISCLOSE to the view of another person a ~~sexually explicit~~
12 image of a person other than himself or herself PRIVATE INTIMATE IMAGE
13 OR AN INTIMATE DIGITAL DEPICTION OF ANOTHER INDIVIDUAL who is at
14 least fourteen years of age or is less than four years younger than the
15 juvenile:

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

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

21 (III) When the juvenile knew or should have known that the
22 depicted ~~person~~ INDIVIDUAL had a reasonable expectation that the
23 PRIVATE INTIMATE image OR INTIMATE DIGITAL DEPICTION would remain
24 private; or

25 (b) ~~Knowingly distributes, displays, or publishes~~ DISCLOSES OR
26 THREATENS TO DISCLOSE, to the view of another person who is at least
27 fourteen years of age or is less than four years younger than the juvenile,

1 a sexually explicit image PRIVATE INTIMATE IMAGE OR INTIMATE DIGITAL
2 DEPICTION of himself or herself when the recipient did not solicit or
3 request to be supplied with the image and suffered emotional distress.

4 (2) A juvenile commits the offense of possessing a private image
5 by a juvenile if he or she PRIVATE INTIMATE IMAGE OR INTIMATE DIGITAL
6 DEPICTION BY A JUVENILE IF THE JUVENILE, through digital or electronic
7 means, knowingly possesses a sexually explicit image PRIVATE INTIMATE
8 IMAGE OR INTIMATE DIGITAL DEPICTION of another person INDIVIDUAL
9 who is at least fourteen years of age or is less than four years younger
10 than the juvenile without the depicted person's permission INDIVIDUAL'S
11 CONSENT; except that it is not a violation of this subsection (2) if the
12 juvenile:

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

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

19 (3) A juvenile commits the civil infraction of exchange of a
20 private image PRIVATE INTIMATE IMAGE OR INTIMATE DIGITAL DEPICTION
21 by a juvenile if he or she THE JUVENILE, through digital or electronic
22 means:

23 (a) Knowingly sends a sexually explicit image or images A
24 PRIVATE INTIMATE IMAGE OR INTIMATE DIGITAL DEPICTION of himself or
25 herself to another person who is at least fourteen years of age or is less
26 than four years younger than the juvenile, and the image or images depict
27 DEPICTION DEPICTS only the sender and no other person and the sender

1 reasonably believed that the recipient had solicited or otherwise agreed
2 to the transmittal of the image or images DEPICTION; or

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

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

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

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

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

1 (III) The juvenile distributed, displayed, or published DISCLOSED
2 three or more images OR DEPICTIONS that depicted three or more separate
3 and distinct persons INDIVIDUALS.

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

9 (c) Exchange of a private image PRIVATE INTIMATE IMAGE OR
10 INTIMATE DIGITAL DEPICTION by a juvenile is a civil infraction and is
11 punishable by participation in a program designed by the school safety
12 resource center or other appropriate program addressing the risks and
13 consequences of exchanging a sexually explicit image PRIVATE INTIMATE
14 IMAGE OR INTIMATE DIGITAL DEPICTION of a juvenile or a fine of up to
15 fifty dollars, which may be waived by the court upon a showing of
16 indigency. If the juvenile fails to appear in response to a civil infraction
17 citation or fails to complete the required class or pay the imposed fee, the
18 court may issue an order to show cause requiring the juvenile's
19 appearance in court and impose additional age-appropriate penalties. The
20 court shall not issue a warrant for the arrest of the juvenile or impose
21 incarceration as a penalty.

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

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

24 (b) "Sexually explicit image" means any electronic or digital
25 photograph, video, or video depiction of the real or simulated external
26 genitalia or perineum or anus or buttocks or pubes of any person or the
27 real or simulated breast of a female person.

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

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

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

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

11 (e) "DIGITAL DEPICTION" MEANS A PHOTOGRAPH, FILM,
12 VIDEOTAPE, RECORDING, DIGITAL FILE, OR OTHER HIGHLY REALISTIC
13 VISUAL DEPICTION OF A DEPICTED INDIVIDUAL, WHICH FALSELY APPEARS
14 TO BE AUTHENTIC OR TRUTHFUL AND WHICH FEATURES A DEPICTION OF AN
15 INDIVIDUAL APPEARING TO ACT IN A WAY THAT THE INDIVIDUAL DID NOT
16 ACT, AND WHICH HAS BEEN CREATED, ALTERED, OR PRODUCED BY
17 DIGITIZATION OR COMPUTER-GENERATED MEANS. "DIGITAL DEPICTION"
18 DOES NOT INCLUDE HANDMADE DRAWINGS OR CARTOONS.

19 (f) "DIGITIZATION" MEANS CREATING OR ALTERING VISUAL OR
20 PRINTED MATTER IN A REALISTIC MANNER USING IMAGES OF ANOTHER
21 PERSON OR COMPUTER-GENERATED IMAGES, REGARDLESS OF WHETHER
22 THE CREATION OR ALTERATION IS ACCOMPLISHED MANUALLY OR THROUGH
23 AN AUTOMATED PROCESS. "DIGITIZATION" INCLUDES, BUT IS NOT LIMITED
24 TO, CREATION OR ALTERATION OF VISUAL OR PRINTED MATTER USING
25 GENERATIVE AI SOFTWARE.

26 (g) "DISCLOSE" MEANS TO TRANSFER, PUBLISH, DISTRIBUTE, OR
27 MAKE ACCESSIBLE.

1 (h) "ELECTRONIC MEDIA" MEANS AN ELECTRONIC MEDIUM,
2 INCLUDING AN INTERACTIVE COMPUTER SERVICE, TELEPHONE NETWORK,
3 OR DATA NETWORK, THAT ALLOWS USERS TO CREATE, SHARE, AND VIEW
4 USER-GENERATED CONTENT, INCLUDING, BUT NOT LIMITED TO, VIDEOS,
5 STILL PHOTOGRAPHS, BLOGS, VIDEO BLOGS OR CHATS, LIVE BLOGS OR LIVE
6 STREAMS, PODCASTS, INSTANT MESSAGES, DIRECT MESSAGES, ELECTRONIC
7 MAIL, OR INTERNET WEBSITE PROFILES.

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

11 (j) "IMAGE EDITING SOFTWARE" MEANS A COMPUTER PROGRAM
12 THAT ALLOWS EDITING, MODIFICATION, OR ALTERATION OF AN IMAGE OR
13 VIDEO.

14 (k) "INTIMATE DIGITAL DEPICTION" MEANS A DIGITAL DEPICTION
15 THAT DEPICTS:

16 (I) THE INTIMATE PARTS OF A DEPICTED INDIVIDUAL; OR

17 (II) A DEPICTED INDIVIDUAL ENGAGING IN SEXUAL ACTS.

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

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

24 (n) "PRIVATE INTIMATE PARTS" MEANS EXTERNAL GENITALIA OR
25 THE PERINEUM OR THE ANUS OR BUTTOCKS OR THE PUBES OF A PERSON OR
26 THE BREAST OF A FEMALE.

27 **SECTION 7.** In Colorado Revised Statutes, 24-4.1-302, **amend**

1 (1)(mm) as follows:

2 **24-4.1-302. Definitions.** As used in this part 3, and for no other
3 purpose, including the expansion of the rights of any defendant:

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

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

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

14 **24-33.5-1803. School safety resource center - created - duties.**

15 **(3) The center has the following duties:**

16 **(m) By June 1, 2018, to make available a model program that**
17 **conforms with section 22-1-128, regarding the risks and consequences of**
18 **sexting for school districts to use, which curriculum must include**
19 **information informing students of the provisions of section 18-7-109,**
20 **including that, if a student receives a ~~sexually explicit image~~ PRIVATE**
21 **INTIMATE IMAGE OR INTIMATE DIGITAL DEPICTION in violation of section**
22 **18-7-109, the student can avoid adjudication as a juvenile delinquent by**
23 **taking reasonable steps to either destroy or delete or report the initial**
24 **viewing of the image OR DEPICTION within seventy-two hours after**
25 **receiving the image OR DEPICTION; and**

26 **SECTION 9.** Act subject to petition - effective date -
27 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following

1 the expiration of the ninety-day period after final adjournment of the
2 general assembly; except that, if a referendum petition is filed pursuant
3 to section 1 (3) of article V of the state constitution against this act or an
4 item, section, or part of this act within such period, then the act, item,
5 section, or part will not take effect unless approved by the people at the
6 general election to be held in November 2026 and, in such case, will take
7 effect on the date of the official declaration of the vote thereon by the
8 governor.

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