

Fiscal: Has minimal fiscal impact

Revenue: No Revenue Impact

Action Date: 05/11/15

Action: Do Pass As Amended And Be Printed Engrossed.

Meeting Dates: 04/29, 05/11

Vote:

Yeas: 9 - Barker, Barton, Greenlick, Krieger, Lininger, Olson, Post, Sprenger, Williamson

Prepared By: Eric Deitrick, Counsel

WHAT THE MEASURE DOES:

Creates crime of unlawful dissemination of an intimate image. Prohibits the nonconsensual disclosure of an intimate picture to a website with a specific intent to harass, humiliate, or injure another person. Establishes that the first violation is a Class A misdemeanor, with each subsequent violation being a Class C felony. Defines terms. Defines exceptions, including immunity for interactive computer services as they are defined by the Federal Communication Decency Act. Declares emergency, effective upon passage.

ISSUES DISCUSSED:

- Bill from work group comprised of Legislative Counsel, Department of Justice, District Attorneys, Oregon Criminal Defense Lawyers Association, and the American Civil Liberties Union
- Whether bill will satisfy free speech limitations imposed under First Amendment to the United States Constitution and Article 1, section 8 of the Oregon Constitution
- Federal immunity given to providers of “interactive computer services”

EFFECT OF COMMITTEE AMENDMENT:

Adds an emergency clause. Defines immunity given to interactive computer services so that it mirrors the immunity given by the Federal Communications Decency Act.

BACKGROUND:

It is increasingly common for people to share intimate pictures of themselves with other people. Typically, these exchanges occur in the context of an intimate relationship. If the person receiving an intimate picture chooses to publish that picture to a public website, the website manager may charge a fee to remove the picture. The Federal Communications Decency Act immunizes website managers from liability when other people post content on their website. Further, the First Amendment and the Oregon Constitution provide protection for speech, even when unpopular or potentially injurious.

Senate Bill 188-B was developed to withstand scrutiny under those two legal frameworks – federal immunities given to certain website providers and free speech jurisprudence. The work group included Legislative Counsel, Department of Justice, District Attorneys, Oregon Criminal Defense Lawyers Association, and the American Civil Liberties Union.