

# B-Engrossed Senate Bill 188

Ordered by the House May 13  
Including Senate Amendments dated February 23 and House Amendments  
dated May 13

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Attorney General Ellen F. Rosenblum)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Creates crime of unlawful dissemination of intimate image. Punishes by maximum of one year's imprisonment, \$6,250 fine, or both for first offense, and five years' imprisonment, \$125,000 fine, or both for subsequent offense.

**Declares emergency, effective on passage.**

## A BILL FOR AN ACT

1  
2 Relating to dissemination of intimate images; creating new provisions; amending ORS 161.005; and  
3 declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. (1) A person commits the crime of unlawful dissemination of an intimate**  
6 **image if:**

7 (a) **The person, with the intent to harass, humiliate or injure another person, knowingly**  
8 **causes to be disclosed through an Internet website an identifiable image of the other person**  
9 **whose intimate parts are visible or who is engaged in sexual conduct;**

10 (b) **The person knows or reasonably should have known that the other person does not**  
11 **consent to the disclosure;**

12 (c) **The other person is harassed, humiliated or injured by the disclosure; and**

13 (d) **A reasonable person would be harassed, humiliated or injured by the disclosure.**

14 (2)(a) **Except as provided in paragraph (b) of this subsection, unlawful dissemination of**  
15 **an intimate image is a Class A misdemeanor.**

16 (b) **Unlawful dissemination of an intimate image is a Class C felony if the person has a**  
17 **prior conviction under this section at the time of the offense.**

18 (3) **As used in this section:**

19 (a) **"Disclose" includes, but is not limited to, transfer, publish, distribute, exhibit, adver-**  
20 **tise and offer.**

21 (b) **"Image" includes, but is not limited to, a photograph, film, videotape, recording, dig-**  
22 **ital picture and other visual reproduction, regardless of the manner in which the image is**  
23 **stored.**

24 (c) **"Information content provider" has the meaning given that term in 47 U.S.C. 230(f).**

25 (d) **"Interactive computer service" has the meaning given that term in 47 U.S.C. 230(f).**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (e) “Intimate parts” means uncovered human genitals, pubic areas or female nipples.

2 (f) “Sexual conduct” means sexual intercourse or deviate sexual intercourse, as those  
3 terms are defined in ORS 163.305, or masturbation.

4 (4) This section does not apply to:

5 (a) Activity by law enforcement agencies investigating and prosecuting criminal offenses;

6 (b) Legitimate medical, scientific or educational activities;

7 (c) Legal proceedings, when disclosure is consistent with common practice in civil pro-  
8 ceedings or necessary for the proper functioning of the criminal justice system;

9 (d) The reporting of unlawful conduct to a law enforcement agency;

10 (e) Disclosures that serve a lawful public interest;

11 (f) Disclosures of images:

12 (A) Depicting the other person voluntarily displaying, in a public area, the other person’s  
13 intimate parts or engaging in sexual conduct; or

14 (B) Originally created for a commercial purpose with the consent of the other person;  
15 or

16 (g) The provider of an interactive computer service for an image of intimate parts pro-  
17 vided by an information content provider.

18 **SECTION 2.** ORS 161.005 is amended to read:

19 161.005. ORS 161.005 to 161.055, 161.085 to 161.125, 161.150 to 161.175, 161.190 to 161.275, 161.290  
20 to 161.370, 161.405 to 161.485, 161.505 to 161.585, 161.605, 161.615 to 161.685, 161.705 to 161.737,  
21 162.005, 162.015 to 162.035, 162.055 to 162.115, 162.135 to 162.205, 162.225 to 162.375, 162.405 to  
22 162.425, 162.465, 163.005, 163.115, 163.125 to 163.145, 163.149, 163.160 to 163.208, 163.196, 163.215 to  
23 163.257, 163.261, 163.263, 163.264, 163.266, 163.275, 163.285, 163.305 to 163.467, 163.432, 163.433,  
24 163.505 to 163.575, 163.665 to 163.693, 164.005, 164.015 to 164.135, 164.138, 164.140, 164.205 to 164.270,  
25 164.305 to 164.377, 164.395 to 164.415, 164.805, 164.857, 164.886, 165.002 to 165.102, 165.109, 165.118,  
26 165.805, 166.005 to 166.095, 166.350, 166.382, 166.384, 166.660, 167.002 to 167.027, 167.057, 167.060 to  
27 167.100, 167.117, 167.122 to 167.162, 167.203 to 167.252, 167.310 to 167.340, [and] 167.350, 167.810 and  
28 167.820 **and section 1 of this 2015 Act** shall be known and may be cited as Oregon Criminal Code  
29 of 1971.

30 **SECTION 3.** This 2015 Act being necessary for the immediate preservation of the public  
31 peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect  
32 on its passage.  
33