

Seventy-Eighth Oregon Legislative Assembly - 2015 Regular Session
STAFF MEASURE SUMMARY
Senate Committee On Judiciary

MEASURE: SB 188 A
CARRIER: Sen. Gelser

Fiscal: Has minimal fiscal impact
Revenue: No Revenue Impact

Action Date: 02/19/15
Action: Do Pass With Amendments. (Printed A-Eng.)
Meeting Dates: 02/10, 02/19
Senate
Yeas: 5 - Burdick, Gelser, Thatcher, Prozanski, Kruse

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. The first violation is a Class A Misdemeanor, with each subsequent violation being a Class C Felony. Defines terms. Creates exceptions. Amendment adds “interactive computer service” providers to list of exceptions.

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
- Trauma and humiliation to victims because of the dissemination of their intimate images
- Some websites proactively remove these images, while others will charge a fee to do so
- Federal immunity given to providers of “interactive computer services”

EFFECT OF COMMITTEE AMENDMENT:

Acknowledges existing federal immunity given to providers of “interactive computer services” and clarifies that crime does not apply to those providers.

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.