



SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1047 be amended to read as follows:

- 1 Page 3, delete lines 35 through 42, begin a new paragraph and
2 insert:
3 "SECTION 2. IC 35-45-4-8, AS ADDED BY P.L.185-2019,
4 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2024]: Sec. 8. (a) This section does not apply to:
6 **(1)** a photograph, digital image, or video that is distributed:
7 ~~(A)~~ **(A)** to report a possible criminal act;
8 ~~(B)~~ **(B)** in connection with a criminal investigation;
9 ~~(C)~~ **(C)** under a court order; **or**
10 ~~(D)~~ **(D)** to a location that is:
11 ~~(A)~~ **(i)** intended solely for the storage or backup of personal
12 data, including photographs, digital images, and video; and
13 ~~(B)~~ **(ii)** password protected; **or**
14 **(E) by a news reporting or an entertainment medium (as**
15 **defined in IC 32-36-1-4);**
16 **(2) a newspaper or news service that publishes news related**
17 **information through a website;**
18 **(3) a cloud service provider; or**
19 **(4) an Internet provider, an affiliate or subsidiary of an**
20 **Internet provider, or a search engine that:**
21 **(A) solely provides access or connection to a website or**
22 **other Internet content that is not under the control of that**
23 **Internet service provider, affiliate or subsidiary, or search**
24 **engine; and**
25 **(B) is not responsible for creating or publishing the content**
26 **that constitutes material harmful to minors.**

1 (b) As used in this section, "distribute" means to transfer to another
2 person in, or by means of, any medium, forum, telecommunications
3 device or network, or ~~Internet web site;~~ **website**, including posting an
4 image on ~~an Internet web site~~ **a website** or application.

5 (c) As used in this section, "intimate image" means a photograph,
6 digital image, **computer generated image**, or video:

- 7 (1) that depicts:
 - 8 (A) sexual intercourse;
 - 9 (B) other sexual conduct (as defined in IC 35-31.5-2-221.5);
 - 10 or
 - 11 (C) exhibition of the uncovered buttocks, genitals, or female
 - 12 breast;

13 of an individual; ~~and~~

- 14 (2) taken, captured, **created, disseminated**, or recorded by:
 - 15 (A) an individual depicted in the photograph, digital image, or
 - 16 video and given or transmitted directly to the person described
 - 17 in subsection (d); ~~or~~

- 18 (B) the person described in subsection (d) in the physical
- 19 presence of an individual depicted in the photograph, digital
- 20 image, or video; ~~or~~

21 **(C) the person described in subsection (d) with respect to**
22 **a photograph, digital image, computer generated image, or**
23 **video of an individual created or modified by means of a**
24 **computer software program, artificial intelligence,**
25 **application, or other digital editing tools; and**

26 **(3) that is of a quality, characteristic, or condition such that it**
27 **appears to depict the alleged victim.**

- 28 (d) A person who:
 - 29 (1) knows or reasonably should know that an individual depicted
 - 30 in an intimate image does not consent to the distribution of the
 - 31 intimate image; and
 - 32 (2) distributes the intimate image;

33 commits distribution of an intimate image, a Class A misdemeanor.
34 However, the offense is a Level 6 felony if the person has a prior
35 unrelated conviction under this section.

36 **(e) It is not a necessary element of the offense described in**
37 **subsection (d) that the individual depicted in the intimate image**
38 **actually sent the image."**

39 Page 4, delete lines 1 through 39.
40 Renumber all SECTIONS consecutively.
(Reference is to EHB 1047 as printed February 23, 2024.)

Senator FREEMAN