

HB 2299 -1 STAFF MEASURE SUMMARY

House Committee On Judiciary

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Meeting Dates: 2/27, 4/7, 4/8

WHAT THE MEASURE DOES:

The measure divides the crime of "unlawful dissemination of an intimate image," a Class A misdemeanor, into first and second degree depending on the culpable mental state of the offender. The measure makes first degree unlawful dissemination of an intimate image a Class C felony on first offense and a Class B felony with a prior conviction of unlawful dissemination of an intimate image in either degree. The measure adds "a digitally created, manipulated or altered depiction that is reasonably realistic" to the definition of "image." The measure makes second degree unlawful dissemination of an intimate image a Class A misdemeanor on first offense and a Class C felony with a prior conviction of the same crime in either degree.

What the Measure Does

Renames "unlawful dissemination of an intimate image" to "unlawful dissemination of an intimate image in the first degree." Increases the classification of the crime from a Class A misdemeanor to a Class C felony or a Class B felony if the person committing the offense has a prior conviction for unlawful dissemination of an intimate image in the first or second degree. Creates the crime "unlawful dissemination of an intimate image in the second degree," which a person commits if they

- Knowingly cause the disclosure of an image of another person whose intimate parts are visible or who is engaged in sexual conduct, as those terms are defined in ORS 163.472;
- Are aware of and consciously disregard a substantial and unjustifiable risk that the other person will be harassed, humiliated, or injured by the disclosure;
- Should have known that the other person does not consent to the disclosure; and
- The other person is reasonably harassed, humiliated, or injured by the disclosure.

Makes unlawful dissemination of an intimate image in the second degree a Class A misdemeanor or a Class C felony if the person committing the offense has a prior conviction for unlawful dissemination of an intimate image in the first or second degree.

Adds to the definition of "image" in unlawful dissemination of an intimate image: "A digitally created, manipulated or altered depiction that is reasonably realistic."

ISSUES DISCUSSED:

- Requirements for image to be an "image of another person"
- Application in different settings and different ages of offenders
- Differences between proposed degrees of offense

EFFECT OF AMENDMENT:

-1 Replaces the measure. Adds "a digitally created, manipulated or altered depiction that is reasonably realistic" to the definition of "image" in the crime of *unlawful dissemination of an intimate image*.

REVENUE: Has minimal revenue impact.

FISCAL: Has minimal fiscal impact.

BACKGROUND:

It is a crime in Oregon to knowingly cause the disclosure of an image of another person, whose intimate parts are visible or who is engaged in sexual conduct, with the intent to harass, humiliate or injure the other person where the person should have known that the person whose image they disclosed does not consent to the disclosure and the other person is reasonably harassed, humiliated, or injured by the disclosure. "Image," "intimate parts," and "sexual conduct" are defined in ORS 163.472:

- "Image": a photograph, film, videotape, recording, digital picture, or other visual reproduction.
- "Intimate parts": uncovered human genitals, pubic areas, or female nipples.
- "Sexual conduct": sexual intercourse or oral or anal sexual intercourse, as those terms are defined in ORS 163.305, or masturbation.

The crime, *unlawful dissemination of an intimate image*, is a Class A misdemeanor, punishable by up to 364 days incarceration and \$6,250 in fines. ORS 163.472, 161.615, 161.635.