

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Civil
5 Liability for Unsolicited Intimate Images Act.

6 Section 5. Definitions. As used in this Act:

7 "Electronic communication device" means (i) any type of
8 instrument, device, machine, equipment, or software that is
9 capable of transmitting, acquiring, encrypting, decrypting, or
10 receiving any signs, signals, writings, images, and sounds or
11 intelligence of any nature by wire, radio, optical, or other
12 electromagnetic systems or (ii) any part, accessory, or
13 component of such an instrument, device, machine, equipment,
14 or software, including, but not limited to, any computer
15 circuit, computer chip, security module, smart card,
16 electronic mechanism, or other component, accessory, or part,
17 that is capable of facilitating the transmission, acquisition,
18 encryption, decryption, or reception of signs, signals,
19 writings, images, and sounds or intelligence of any nature by
20 wire, radio, optical, or other electromagnetic systems.

21 "Emotional distress" means mental suffering, anxiety or
22 alarm.

23 "Obscene material" means material, including, but not

1 limited to, images depicting a person engaging in an act of
2 sexual intercourse, sodomy, oral copulation, sexual
3 penetration, or masturbation, or depicting the exposed
4 genitals or anus of any person, taken as a whole, that to the
5 average person, applying contemporary statewide standards,
6 appeals to the prurient interest, that, taken as a whole,
7 depicts or describes sexual conduct in a patently offensive
8 way, and that, taken as a whole, lacks serious literary,
9 artistic, political, or scientific value.

10 "Reasonable person" means a person in the plaintiff's
11 circumstances with the plaintiff's knowledge, or lack of
12 knowledge, of the defendant and the defendant's prior acts.

13 Section 10. Unsolicited intimate image liability. Any
14 person 18 years of age or older who knowingly and
15 intentionally transmits obscene material by computer or other
16 electronic means to the computer or electronic communication
17 device of another person 18 years of age or older commits a
18 trespass and is liable to the recipient of the obscene
19 material for actual damages or \$500, whichever is greater, in
20 addition to reasonable attorney's fees and costs, if the
21 person who receives the obscene material has not consented to
22 the receipt of the obscene material or has expressly forbidden
23 the receipt of the obscene material and if a reasonable person
24 who receives the obscene material would suffer emotional
25 distress as a result of the receipt of the obscene material.

1 The court may also enjoin and restrain the defendant from
2 committing such further acts.

3 The remedies provided by this Act are cumulative and shall
4 not be construed as restricting a remedy that is available
5 under any other law.

6 Section 15. Application. The provisions of this Act shall
7 not apply to (i) any Internet service provider, mobile data
8 provider, or operator of an online or mobile application, to
9 the extent that such entity is transmitting, routing, or
10 providing connections for electronic communications initiated
11 by or at the direction of another, (ii) any service that
12 transmits material, including an on-demand, subscription, or
13 advertising-supported service, (iii) a health care provider
14 that transmits material for a legitimate medical purpose, or
15 (iv) any transmission of commercial email.

16 Section 20. Venue. Venue for an action under this Act may
17 lie in the jurisdiction where the obscene material is
18 transmitted from or where the obscene material is received or
19 possessed by the plaintiff.