

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
90th General Assembly  
Regular Session, 2015

As Engrossed: S2/17/15  
**A Bill**

SENATE BILL 156

By: Senator Hester  
By: Representatives House, Wright

### **For An Act To Be Entitled**

AN ACT TO CRIMINALIZE THE DISTRIBUTION OF AN IMAGE,  
*PICTURE, VIDEO, OR VOICE OR AUDIO RECORDING OF A  
SEXUAL NATURE TO HARASS, FRIGHTEN, INTIMIDATE,  
THREATEN, OR ABUSE A FAMILY OR HOUSEHOLD MEMBER OR A  
PERSON IN A CURRENT OR FORMER DATING RELATIONSHIP;  
AND FOR OTHER PURPOSES.*

### **Subtitle**

TO CRIMINALIZE THE DISTRIBUTION OF IMAGES  
*OR RECORDINGS OF A SEXUAL NATURE TO  
HARASS, FRIGHTEN, INTIMIDATE, THREATEN,  
OR ABUSE A FAMILY OR HOUSEHOLD MEMBER OR  
PERSON FROM A DATING RELATIONSHIP.*

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

*SECTION 1. Arkansas Code § 5-26-302 is amended to read as follows:  
5-26-302. Definitions.*

*As used in this subchapter:*

*(1)(A) "Dating relationship" means a romantic or intimate social  
relationship between two (2) individuals that is determined by examining the  
following factors:*

- (i) The length of the relationship;*
- (ii) The type of the relationship; and*
- (iii) The frequency of interaction between the two*



(2) *individuals involved in the relationship.*

(B) *"Dating relationship" does not include a casual relationship or ordinary fraternization between two (2) individuals in a business or social context; and*

(2) *"Family or household member" means:*

(A) *A spouse;*

(B) *A former spouse;*

(C) *A parent;*

(D) *A child, including any minor residing in the household;*

(E)(i) *Persons related by blood within the fourth degree of consanguinity.*

(ii) *The degree of consanguinity is computed pursuant to § 28-9-212;*

(F) *Persons who presently or in the past have resided or cohabited together;*

(G) *Persons who have or have had a child in common; or*

(H) *Persons who are presently or in the past have been in a dating relationship together;*

(3) "Harass" means an act of harassment as prohibited by § 5-71-208;

(4) "Intimidate" means to force into or deter from an action by inducing fear;

(5) "Sexual nature" means that an image, picture, video, or voice or audio recording depicts actual or simulated:

(A) Sexual intercourse;

(B) Deviate sexual activity;

(C) Bestiality;

(D) Masturbation;

(E) Sadomasochistic abuse for the purpose of sexual stimulation; or

(F) Lewd exhibition of the:

(i) Genitals or pubic area of any person; or

(ii) Breast of a female; and

(6) "State of nudity" means:

(A) The appearance of a human anus, human genitals, or a female breast below a point immediately above the top of the areola; or

(B) A state of dress that fails to opaquely cover a human anus, human genitals, or a female breast below a point immediately above the top of the areola.

SECTION 2. Arkansas Code Title 5, Chapter 26, Subchapter 3, is amended to add an additional section to read as follows:

5-26-314. Unlawful distribution of sexual images or recordings.

(a) A person commits the offense of unlawful distribution of sexual images or recordings if, being eighteen (18) years of age or older, with the purpose to harass, frighten, intimidate, threaten, or abuse another person, the actor distributes an image, picture, video, or voice or audio recording of the other person to a third person by any means if the image, picture, video, or voice or audio recording:

(1) Is of a sexual nature or depicts the other person in a state of nudity; and

(2) The other person is a family or household member of the actor or another person with whom the actor is in a current or former dating relationship.

(b) The fact that an image, picture, video, or voice or audio recording was created with the knowledge or consent of the other person or that the image, picture, video, or voice or audio recording is the property of a person charged under this section is not a defense to prosecution under this section.

(c) Unlawful distribution of sexual images or recordings is a Class A misdemeanor.

(d)(1) Upon the pretrial release of a person charged under this section, the court shall enter an order consistent with Rules 9.3 and 9.4 of the Arkansas Rules of Criminal Procedure and shall give notice to the person charged under this section of the penalties contained in Rule 9.5 of the Arkansas Rules of Criminal Procedure.

(2) An order under subdivision (d)(1) of this section remains in effect during the pendency of any appeal of a conviction under this section.

/s/Hester