

Cherokee Nation Code Annotated

Title 21: Crimes and Punishments

Part IV. Crimes Against Public Decency and Morality

Chapter 39: Cherokee Nation Obscenity and Child Pornography Act

§ 1040.13b. Nonconsensual dissemination of private sexual images

Cite as: 21 CNCA § 1040.13b

A. As used in this section:

1. "Image" includes a photograph, film, videotape, digital recording or other depiction or portrayal of an object, including a human body;
2. "Intimate parts" means the fully unclothed, partially unclothed or transparently clothed genitals, pubic area or female adult nipple; and
3. "Sexual act" means sexual intercourse including genital, anal or oral sex.

B. A person commits nonconsensual dissemination of private sexual images when he or she:

1. Intentionally disseminates an image of another person:
 - a. who is at least eighteen (18) years of age,
 - b. who is identifiable from the image itself or information displayed in connection with the image, and
 - c. who is engaged in a sexual act or whose intimate parts are exposed, in whole or in part;
2. Disseminates the image with the intent to harass, intimidate or coerce the person, or under circumstances in which a reasonable person would know or understand that dissemination of the image would harass, intimidate or coerce the person;
3. Obtains the image under circumstances in which a reasonable person would know or understand that the image was to remain private; and
4. Knows or a reasonable person should have known that the person in the image has not consented to the dissemination.

C. The provisions of this section shall not apply to the intentional dissemination of an image of another identifiable person who is engaged in a sexual act or whose intimate parts are exposed when:

1. The dissemination is made for the purpose of a criminal investigation that is otherwise lawful;

2. The dissemination is for the purpose of, or in connection with, the reporting of unlawful conduct;

3. The images involve voluntary exposure in public or commercial settings; or

4. The dissemination serves a lawful purpose.

D. Nothing in this section shall be construed to impose liability upon the following entities solely as a result of content or information provided by another person:

1. An interactive computer service, as defined in 47 U. S. C., Section 230(f)(2);

2. A wireless service provider, as defined in Section 332(d) of the Telecommunications Act of 1996, 47 U.S.C., Section 151 et seq., Federal Communications Commission rules, and the Omnibus Budget Reconciliation Act of 1993, Pub.L.No. 103-66; or

3. A telecommunications network or broadband provider.

E. A person convicted under this section is subject to the forfeiture provisions in Section 1040.54 of this title.

F. Any person who violates the provisions of this section shall be guilty of a misdemeanor punishable by imprisonment for a term not to exceed one (1) year or by a fine of not more than One Thousand Dollars (\$1,000.00), or both such fine and imprisonment.

G. Any person who violates the provisions of this section and who gains or attempts to gain financially or who gains or attempts to gain anything of value as a result of the nonconsensual dissemination of private sexual images shall be guilty of a felony punishable by imprisonment for a term not to exceed three (3) years. A second or subsequent violation of this subsection shall be a felony punishable by imprisonment for a term not to exceed three (3) years and the offender shall be required to register as a sex offender pursuant to 57 CNCA § 1 et seq.

H. The court shall have the authority to order the defendant to remove the disseminated image should the court find it is in the power of the defendant to do so.

Historical Data

LA 07-21, eff. February 22, 2021.