

115TH CONGRESS
1ST SESSION

S. 1296

To amend the Uniform Code of Military Justice to prohibit the wrongful broadcast or distribution of intimate visual images.

IN THE SENATE OF THE UNITED STATES

JUNE 6, 2017

Mrs. McCASKILL (for herself, Mr. HELLER, and Mrs. ERNST) introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To amend the Uniform Code of Military Justice to prohibit the wrongful broadcast or distribution of intimate visual images.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protecting the Rights
5 of IndiViduals Against Technological Exploitation Act” or
6 the “PRIVATE Act”.

1 **SEC. 2. PROHIBITION ON WRONGFUL BROADCAST OR DIS-**
 2 **TRIBUTION OF INTIMATE VISUAL IMAGES.**

3 (a) PROHIBITION.—Subchapter X of chapter 47 of
 4 title 10, United States Code, is amended by inserting after
 5 section 917 (article 117 of the Uniform Code of Military
 6 Justice) the following new section (article):

7 **“§ 917a. Art. 117a. Wrongful broadcast or distribution**
 8 **of intimate visual images**

9 “(a) PROHIBITION.—Any person subject to this chap-
 10 ter who—

11 “(1) knowingly and wrongfully broadcasts or
 12 distributes an intimate visual image of a private
 13 area of another person who—

14 “(A) is at least 18 years of age at the time
 15 the intimate visual image was created;

16 “(B) is identifiable from the image itself or
 17 from information displayed in connection with
 18 the image; and

19 “(C) does not explicitly consent to the
 20 broadcast or distribution of the intimate visual
 21 image;

22 “(2) knows or reasonably should have known
 23 that the intimate visual image was made under cir-
 24 cumstances in which the person depicted in the inti-
 25 mate visual image retained a reasonable expectation

1 of privacy regarding any broadcast or distribution of
 2 the intimate visual image; and

3 “(3) knows or reasonably should have known
 4 that the broadcast or distribution of the intimate
 5 visual image is likely—

6 “(A) to cause harm, harassment, intimidat-
 7 tion, emotional distress, or financial loss for the
 8 person depicted in the intimate visual image; or

9 “(B) to harm substantially the depicted
 10 person with respect to that person’s health,
 11 safety, business, calling, career, financial condi-
 12 tion, reputation, or personal relationships,

13 is guilty of wrongful distribution of intimate visual images
 14 and shall be punished as a court-martial may direct.

15 “(b) DEFINITIONS.—In this section (article):

16 “(1) BROADCAST.—The term ‘broadcast’ means
 17 to electronically transmit a visual image with the in-
 18 tent that it be viewed by a person or persons.

19 “(2) DISTRIBUTE.—The term ‘distribute’
 20 means to deliver to the actual or constructive posses-
 21 sion of another person, including transmission by
 22 mail or electronic means.

23 “(3) INTIMATE VISUAL IMAGE.—The term ‘inti-
 24 mate visual image’ means a photograph, video, film,

1 or recording made by any means that depicts a pri-
 2 vate area of a person.

3 “(4) PRIVATE AREA.—The term ‘private area’
 4 means the naked or underwear-clad genitalia, anus,
 5 buttocks, or female areola or nipple.

6 “(5) REASONABLE EXPECTATION OF PRI-
 7 VACY.—The term ‘reasonable expectation of privacy’
 8 refers to circumstances in which a reasonable person
 9 would believe that an intimate visual image of the
 10 person would not be broadcast or distributed to an-
 11 other person.”.

12 (b) CLERICAL AMENDMENT.—The table of sections
 13 at the beginning of subchapter X of chapter 47 of title
 14 10, United States Code (the Uniform Code of Military
 15 Justice), is amended by inserting after the item relating
 16 to section 917 (article 117) the following new item:

“917a. 117a. Wrongful broadcast or distribution of intimate visual images.”.

