

**AMENDMENT TO RULES COMMITTEE PRINT 117-3
OFFERED BY MS. PLASKETT OF VIRGIN ISLANDS**

Page 231, insert after line 17 the following:

1 **SEC. 1411. CIVIL ACTION RELATING TO DISCLOSURE OF IN-**
2 **TIMATE IMAGES.**

3 (a) DEFINITIONS.—In this section:

4 (1) CONSENT.—The term “consent” means,
5 with respect to an individual, an affirmative, con-
6 scious, and voluntary authorization made by the in-
7 dividual free from force, fraud, misrepresentation, or
8 coercion of the depicted individual.

9 (2) COMMERCIAL PORNOGRAPHIC CONTENT.—
10 The term “commercial pornographic content” means
11 any material that is subject to the record keeping re-
12 quirements under section 2257 of title 18, United
13 States Code.

14 (3) DEPICTED INDIVIDUAL.—The term “de-
15 picted individual” means an individual whose body is
16 disclosed in whole or in part in an intimate image.

17 (4) DISCLOSE.—The term “disclose” means to
18 transfer, publish, distribute, or make accessible an
19 intimate image.

1 (5) IDENTIFIABLE.—The term “identifiable”
2 means recognizable by an individual other than the
3 depicted individual from—

4 (A) the intimate image itself; or

5 (B) information or text displayed in con-
6 nection with the intimate image.

7 (6) INTIMATE IMAGE.—The term “intimate
8 image”—

9 (A) means a photograph, film, video re-
10 cording, or digital recording that shows—

11 (i) the uncovered genitals, pubic area,
12 anus, or female nipple of an individual;

13 (ii) the display or transfer of bodily
14 sexual fluids on to any part of the body of
15 an individual;

16 (iii) an individual engaging in sexually
17 explicit conduct; or

18 (iv) an individual being subjected to
19 sexually explicit conduct; and

20 (B) includes any image described in sub-
21 paragraph (A) captured or recorded while the
22 depicted individual was in a public place if—

23 (i) the depicted individual did not vol-
24 untarily display the content depicted in the
25 image; or

1 (ii) the depicted individual did not
2 consent to the sexual conduct depicted in
3 the image.

4 (7) SEXUALLY EXPLICIT CONDUCT.—The term
5 “sexually explicit conduct” has the meaning given
6 the term in subparagraphs (A) and (B) of section
7 2256(2) of title 18, United States Code.

8 (b) CIVIL ACTION.—

9 (1) RIGHT OF ACTION.—Except as provided in
10 paragraph (4), a depicted individual, or in the case
11 of a depicted individual who is a minor, the parent
12 of the depicted individual, whose intimate image is
13 disclosed, in or through interstate or foreign com-
14 merce or using a means of interstate or foreign com-
15 merce (including the internet), without the consent
16 of the depicted individual, and such disclosure was
17 made by a person who acted knowingly without, or
18 with reckless disregard for, the consent of the de-
19 picted individual to such disclosure, may bring a civil
20 action against that person in an appropriate district
21 court of the United States for appropriate relief.

22 (2) CONSENT.—For purposes of an action
23 under paragraph (1)—

24 (A) evidence that the depicted individual
25 provided consent to the capture or recording of

1 the intimate image shall not, by itself, con-
2 stitute evidence that the depicted individual
3 provided consent to the disclosure of the inti-
4 mate image; and

5 (B) evidence that the depicted individual
6 disclosed the image to the person alleged to
7 have violated paragraph (1) shall not, by itself,
8 constitute evidence that the depicted individual
9 provided consent to the further disclosure of the
10 intimate image.

11 (3) RELIEF.—

12 (A) IN GENERAL.—In a civil action filed
13 under this section—

14 (i) an individual may recover the ac-
15 tual damages sustained by the individual
16 or liquidated damages in the amount of
17 \$150,000, and the cost of the action, in-
18 cluding reasonable attorney's fees and
19 other litigation costs reasonably incurred;
20 and

21 (ii) the court may, in addition to any
22 other relief available at law, order equi-
23 table relief, including a temporary restrain-
24 ing order, a preliminary injunction, or a
25 permanent injunction ordering the defend-

1 ant to cease display or disclosure of the
2 image.

3 (B) PRESERVATION OF ANONYMITY.—In
4 ordering relief under subparagraph (A), the
5 court may grant injunctive relief maintaining
6 the confidentiality of a plaintiff using a pseu-
7 donym.

8 (4) EXCEPTIONS.—A depicted individual may
9 not bring an action for relief under this section re-
10 lating to—

11 (A) an intimate image that is commercial
12 pornographic content unless—

13 (i) the content was produced by force,
14 fraud, misrepresentation, or coercion of the
15 depicted individual; and

16 (ii) the claim of force, fraud, mis-
17 representation, or coercion under clause (i)
18 is demonstrated through a preponderance
19 of evidence;

20 (B) a disclosure made in good faith—

21 (i) to a law enforcement officer or
22 agency;

23 (ii) as part of a legal proceeding;

24 (iii) as part of medical education, di-
25 agnosis, or treatment; or

- 1 (iv) in the reporting or investigation
2 of—
3 (I) unlawful content; or
4 (II) unsolicited or unwelcome
5 conduct;
6 (C) a matter of public concern or public in-
7 terest; or
8 (D) a disclosure reasonably intended to as-
9 sist the depicted individual.

