

How Iowa’s “Revenge Porn” and AI-Generated Porn Laws Disproportionately Harm Women and Minors

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I. INTRODUCTION

While in a committed relationship, “Jane” allowed her boyfriend to photograph her naked.¹ After they broke up, Jane’s ex-boyfriend revealed the intimate photographs by posting them on a pornographic website with her contact information, betraying her trust.² This is one example of the nonconsensual distribution of pornography. Nonconsensual pornography is the “distribution of sexually graphic images of individuals without their consent.”³ Whether the original image was obtained with or without consent is irrelevant.⁴ Nonconsensual pornography, commonly referred to as “revenge porn,” is illegal in 48 states.⁵ However, the term “revenge porn” perpetuates victim-blaming by insinuating the victim committed wrongdoing and therefore deserved the distribution of their sexually graphic images.⁶ With the rise of generative artificial intelligence (AI), one can distribute nonconsensual porn without ever obtaining original, sexually graphic images. These technological advances raise additional causes for concern and may create gaps in states’ “revenge porn” criminal statutes, but the harm to the victim remains the same.

Even in Iowa, on my college campus, harms such as these occur. In the fall of 2020, Makena Solberg, a University of Iowa student, woke up without any memory of the night before.⁷ Days later, a friend told her there were videos and photographs of her being sexually assaulted by Phi Gamma Delta members, Jacob Meloan and Carson Steffen.⁸ The videos and photographs of the assault were then shared with fraternity members and others.⁹ Ms. Solberg reported the sexual assault to law enforcement and pursued legal action against both Mr. Meloan and Mr. Steffen.¹⁰ One year later, with no arrests or prosecutions pending, Ms. Solberg’s supporters launched a petition

¹ Danielle Keats Citron & Mary Anne Franks, *Criminalizing Revenge Porn*, 49 WAKE FOREST L. REV. 345, 345 (2014) (clarifying that Jane is a fake name used to keep the victim’s identity anonymous).

² *Id.*

³ *Id.* at 346.

⁴ *Id.*

⁵ Mariel Padilla, *With AI, Anyone Can Be a Victim of Nonconsensual Porn. Can Laws Keep Up?*, MARKUP (Mar. 11, 2024, 6:00 ET), <https://themarkup.org/news/2024/03/11/with-ai-anyone-can-be-a-victim-of-nonconsensual-porn-can-laws-keep-up> [<https://perma.cc/MUQ3-H8MR>].

⁶ *State v. Miller*, 4 N.W.3d 29, 38 (Iowa 2024) (Christensen, J., dissenting).

⁷ *Lawsuit Against Univ. of Iowa Fraternity Dismissed After Settlement Reached*, KCRG (Oct. 2, 2024, 11:08 AM CDT), <https://www.kcrg.com/2024/10/02/lawsuit-against-univ-iowa-fraternity-dismissed-after-settlement-reached> [<https://perma.cc/X8XT-ZAQ5>].

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

with over 100,000 signatures calling for the abolishment of the fraternity on the University of Iowa campus.¹¹ The lack of criminal penalties brought against the named assailants led to several protests on campus, with about 1,000 people at the first protest.¹² After the protests, the Johnson County Attorney’s Office and the Iowa City Police Department finally began their investigation.¹³ However, “[t]he Iowa City police investigated but did not charge anyone with sexual assault.”¹⁴ Steffan was ultimately charged with harassment for sharing a photo of the incident.¹⁵ In September 2024, Ms. Solberg reached a settlement with the fraternity and voluntarily dismissed the civil action against Mr. Meloan.¹⁶ In October 2024, Ms. Solberg reached a settlement with Mr. Steffan to drop the civil charge against him; however, he still faces criminal harassment charges.¹⁷ Nonconsensual pornography distribution is not an uncommon occurrence—its presence on the University of Iowa’s own campus was only brought to light via lawsuits and public outcry. Before “revenge porn” laws, women like Ms. Solberg were routinely overlooked, blamed, and left with little to no legal recourse for such heinous crimes committed against them.

In March 2024, Iowa legislators passed House File 526 and became the 35th state to criminalize nonconsensual pornography.¹⁸ Of the 35 states with their own revenge porn laws, there is a wide variety in both punishment and definition of the crime.¹⁹ For example, some states classify the crime as a misdemeanor while others classify it as a felony punishable by up to three

¹¹ Hillary Ojeda, *What We Know About Sexual Assault Allegations Against Members of University of Iowa’s Fiji Fraternity*, IOWA CITY PRESS-CITIZEN (Sept. 3, 2021, 5:16 PM CT), <https://www.press-citizen.com/story/news/crime-and-courts/2021/09/03/sexual-assault-allegations-university-iowa-fiji-fraternity-house-petition-protest-phi-gamma-delta/5712890001> [<https://perma.cc/X8LH-5BCE>].

¹² *Id.*

¹³ *Id.*

¹⁴ *Lawsuit Against Univ. Of Iowa Fraternity Dismissed After Settlement Reached*, *supra* note 7.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Brianne Pfannenstiel, *Iowa House Passes Bill Criminalizing ‘Revenge Porn’*, DES MOINES REG. (Mar. 27, 2017, 8:31 PM CT), <https://www.desmoinesregister.com/story/news/politics/2017/03/27/iowa-house-passes-bill-criminalizing-revenge-porn/99714656> [<https://perma.cc/4QGL-3LFT>].

¹⁹ Brianne Pfannenstiel, *Iowa Lawmakers Look to Address ‘Revenge Porn’*, DES MOINES REG. (Feb. 15, 2016, 3:58 PM CT), <https://www.desmoinesregister.com/story/news/politics/2016/02/14/iowa-lawmakers-look-address-revenge-porn/80050244> [<https://perma.cc/JWN8-3HNW>].

years in prison and a fine of up to \$25,000.²⁰ Some states also have specific requirements for criminal charges to be brought, such as requiring that personally identifiable information be included with the images, that the parties be intimate partners, or that the victim not have photographed themselves, thus limiting recovery.²¹ In July 2024, House File 526 went into effect, making it a crime “to employ, use, persuade, induce, entice, coerce, solicit, knowingly permit, or otherwise cause or attempt to cause a minor or a law enforcement officer or agent posing as a minor to engage in a prohibited sexual act or in the simulation of a prohibited sexual act.”²² This law requires the perpetrator to “know, or have reason to know, or intend that the act or simulated act may be photographed, filmed, or otherwise preserved in a visual depiction.”²³

However, prosecutors face challenges in executing Iowa’s revenge porn statutes because the offender often uses a third party, such as a website, to distribute the nonconsensual pornography.²⁴ As a result, no party is charged because the distributor did not know or have reason to know the pornography was non-consensual, and the offender is able to hide behind a third party to escape liability.²⁵ Also, to be charged with harassment, one’s actions must be directed at the victim.²⁶ In the revenge pornography context, the question becomes whether the perpetrator intended to harm the specific victim. However, “the vast majority of perpetrators—nearly 80%—report[ed] being motivated by something other than the desire to hurt the victim” such as “greed, voyeurism, and self-aggrandizement.”²⁷ In a 2017 study of Americans with social media, researchers found that one in eight participants were previously victimized by or threatened with nonconsensual pornography,²⁸ and “[t]ypically 90% or more of revenge porn victims are women.”²⁹

²⁰ *Id.*

²¹ *Id.*

²² IOWA CODE ANN. § 728.12(1) (West 2024).

²³ *Id.*

²⁴ Pfannenstiel, *supra* note 19.

²⁵ *See id.*

²⁶ *Id.*

²⁷ State v. Miller, 4 N.W.3d 29, 38 (Iowa 2024) (Christensen, J., dissenting) (quoting Mary Anne Franks, *Drafting an Effective “Revenge Porn” Law: A Guide for Legislators*, CYBER C.R. INITIATIVE (2021) <https://cybercivilrights.org/wp-content/uploads/2021/10/Guide-for-Legislators-10.21.pdf> [<https://perma.cc/55BL-DJQT>]).

²⁸ Franks, *supra* note 27, at 4.

²⁹ Miller, 4 N.W.3d at 44 (quoting IOWA LEG., *House Action (HF 526), Introductory Remarks by Heartsill of Marion*, at 7:32–7:44 PM (Mar. 27, 2017), <https://www.legis.iowa.gov/dashboard?view=video&chamber=H&clip=H20170327163935379&offset=10396&bill=HF%20526&dt=2017-03-27&ga=87> [<https://perma.cc/Q7YH-JGSN>]).

Nonconsensual pornography dissemination in any form is image-based sexual abuse and, therefore, a crime under Iowa law. However, nonconsensual pornography is more often perpetrated by men, while women and girls are more likely to be victims and face harsher consequences resulting from victimization.³⁰ These disparities are exacerbated by rape culture, where sexual consent is assumed, and women are not believed when they come forward to report an assault, especially if they have engaged in consensual sexual acts in the past with or without the same partner.³¹ Given the immense social consequences women and minors face in pursuing a legal remedy, the law should seek to minimize these disparities and produce equitable results, so victims are encouraged, rather than punished, for speaking up about crimes committed against them.

II. BACKGROUND

To accomplish these objectives, this Note will begin by laying out a psychological background that explains why the instinct is often to blame victims of sexual crimes, culminating in implicit bias. Next, this Note will establish the heightened importance and urgency of “revenge porn” statutes because of the rise of generative AI. Ironically, federal law protects this technological innovation of generative AI host sites rather than protecting victims of sexual crimes perpetrated on the internet. Finally, this note will examine Iowa’s “revenge porn” laws, invoking civil and criminal liability, and propose federal and state statutory reform.

A. The History of Victim-Blaming for Sexual Crimes

Victim blaming is physiologically rooted in the “just-world bias” that human brains use to satisfy their biological need for predictability.³² Essentially, the brain understands the world by oversimplifying the reality it processes, treating it as fair and just. Therefore, society struggles to grasp the concept that bad things can happen to good people. Instead, the brain thinks that people get what they deserve. Just-world bias, like any other type of unconscious bias, takes active thinking to unlearn. Common issues where

³⁰ Franks, *supra* note 27, at 3.

³¹ *Id.* at 4.

³² Maia Szalavitz, *Why We’re Psychologically Hardwired to Blame the Victim*, *GUARDIAN* (Feb. 27, 2018, 6:00 EST),

<https://www.theguardian.com/us-news/2018/feb/27/victim-blaming-science-behind-psychology-research> [<https://perma.cc/57ZW-ZDFR>].

just-world bias manifests are homelessness, poverty, and sexual crimes.³³ Victim blaming is a tool society uses to avoid acknowledging its own vulnerability to an issue.³⁴ Through this deflection, society can avoid the discomfort of acknowledging that bad things happen to good people, thus allowing them to maintain their own just-world bias at the expense of sexual crime victims facing real-world consequences.³⁵ The societal perception of female sexuality also heightens the blame that sexual assault victims experience, as evidence shows that “women and girls face more serious consequences as a result of victimization.”³⁶

While the last 50 years are considered the era of the “gender revolution,” as significant progress has been made in women’s legal rights, gender equality is still far from a reality.³⁷ For instance, women and girls are more often sexualized and forced to suppress sexual feelings than men or boys.³⁸ Research shows that sexual suppression of women leads to gendered violence, social stigma, and hostility.³⁹ These social norms hinder a woman’s freedom of expression because her sexual expression often results in ridicule by men and women, sexualization, and dehumanization.⁴⁰ “Nonconsensual pornography often plays a role in crimes that disproportionately affect women, including intimate partner violence, sexual abuse, sexual assault, and sex trafficking.”⁴¹ Gendered stereotypes about female sexual expression contribute to the toxicity of rape culture, where “sexual consent is regularly ignored.”⁴²

In Iowa, rape culture is evident from sexual perpetrators’ statements after seeing the consequences of their actions. After Ms. Solberg pursued legal action, one of the perpetrators, “Steffen wondered why he and Meloan were in such trouble when ‘something similar had been done by two (other)

³³ See generally *id.* (discussing the intersection between just-world bias and victim-blaming in situations associated with poverty, homelessness, and sexual crimes).

³⁴ *Rape Culture, Victim Blaming, and the Facts*, INSIDE S., <https://inside.southernct.edu/sexual-misconduct/facts> [https://perma.cc/Z8AV-LE6A].

³⁵ *Id.*

³⁶ Franks, *supra* note 27, at 3.

³⁷ Paula England et al., *Progress Toward Gender Equality in the United States Has Slowed or Stalled*, 117 PROC. NATL. ACAD. SCI. U.S.A. 6990, 6990 (2020).

³⁸ See Francesca R. Luberti et al., *Evolutionary Ecological Insights into the Suppression of Female Sexuality*, CURRENT RSCH. IN ECOLOGICAL & SOC. PSYCH. 1, 1 (2023).

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ Franks, *supra* note 27, at 4.

⁴² *Id.* (quoting Clare McGlynn & Erika Rackley, *Image-Based Sexual Abuse*, 37 OXFORD J. L. STUDIES 534 (2017)).

members [of the fraternity chapter].”⁴³ This rhetoric contributes to victim-blaming and even attempts to have the perpetrator play the role of the victim. However, “ignorance of the law is no excuse,” or the law would cease to exist.⁴⁴

The normalization of rape culture in Iowa illustrates the need for equitable remedies in the law for victims of sexually related crimes. For sexual assault victims, rape shield laws are a step towards more equitable remedies as they lower evidentiary barriers to recovery in the justice system. Iowa’s rape shield law helps combat gender inequality in sexual crimes because it creates a presumption preventing the entry of a rape victim’s past sexual experiences as evidence.⁴⁵ Before rape shield laws, victims of sexual crimes could be interrogated about their past sexual experiences, even if entirely irrelevant, because no protections were in place.⁴⁶ This allowance by the law perpetuates victim blaming through societal stereotypes and deters reporting and prosecuting of sexual offenses.⁴⁷ To counteract these inequitable outcomes, rape shield laws were created to encourage reporting, increase prosecutions of sexual crimes, and protect the privacy of victims.⁴⁸

There is a common yet false belief that consent is transferable in sexual encounters.⁴⁹ However, this belief, when placed in other contexts, is absurd.⁵⁰ For example, if your realtor asks for your consent to purchase a house, that consent is specific to the house, price, and other conditions agreed upon. So, it would be absurd for your realtor to transfer that consent to the purchase of a different home. The same is true for consent in sexual contexts.

⁴³ Vanessa Miller, *As University of Iowa Fraternity Lawsuit Moves Toward Trial, Both Sides Seek Court Intervention*, GAZETTE (Aug. 21, 2024, 5:30 AM), <https://www.thegazette.com/higher-education/as-university-of-iowa-fraternity-lawsuit-moves-toward-trial-both-sides-seek-court-intervention> [<https://perma.cc/CTX2-KCEU>].

⁴⁴ Brian Gabriel, *Is Ignorance of the Law a Valid Legal Defense?*, GABRIEL & GABRIEL, LLC (Feb. 15, 2021), <https://www.gabriellawteam.com/is-ignorance-of-the-law-a-valid-legal-defense> [<https://perma.cc/QNR2-8SVF>] (quoting Thomas Jefferson: “Ignorance of the law is no excuse in any country. If it were, the laws would lose their effect, because it can always be pretended.”).

⁴⁵ Lukas Saunders, *Rape Shield Laws: Protecting Sex-Crime Victims*, NOLO, <https://www.nolo.com/legal-encyclopedia/rape-shield-laws-protecting-sex-crime-victims.html> [<https://perma.cc/A5XJ-FMT2>].

⁴⁶ *Id.*

⁴⁷ *State v. Ogilvie*, 310 N.W.2d 192, 195 (Iowa 1981) (discussing policy reasons for rape shield laws, such as encouraging the reporting and prosecuting of sex offenses); *see, e.g., State v. Alvey*, 458 N.W.2d 850 (Iowa 1990), *abrogated by State v. Baker*, 679 N.W.2d 7 (Iowa 2004).

⁴⁸ *Ogilvie*, 310 N.W.2d at 195.

⁴⁹ Citron & Franks, *supra* note 1, at 348.

⁵⁰ *Id.*

Consenting to one sexual act or with one sexual partner is specific to that one occurrence. Therefore, it is absurd to use a victim's sexual past as evidence to negate that the victim was raped, hence why rape shield laws exist. The purpose of Iowa's rape shield law "is to protect the victim's privacy, encourage the reporting and prosecution of sex offenses, and prevent the parties from delving into distractive, irrelevant matters."⁵¹ Rape shield laws show how the disparate harm women and minors face is finally being recognized and taken seriously. However, rape shield laws are interpreted with a significant amount of judicial discretion, allowing vastly different outcomes across jurisdictions.⁵² Even when state legislatures attempt to limit judicial discretion, judges have found other exceptions to admit evidence to elude rape shield laws.⁵³

B. *The Rise of Technology: Good or Evil?*

The rise of technology has given society more power and access to information than ever before. With new technology, there is a learning curve to create the necessary protections for users. The recent rise of generative AI has developed an incredibly useful tool that people can use for good or evil.⁵⁴ Generative AI creates many dangers that primarily impact women and girls in the context of deepfake technology, which can create synthetic porn that "take[s] an image of a real person and make[s] their likeness appear in explicit images or videos."⁵⁵ This technology affects "[a]lmost exclusively young women who are non-consensually being undressed and put into AI-generated porn"⁵⁶ A 2023 U.S. study found that "deepfake porn makes up 98% of all deepfake videos online, with 99% of them targeting women[.]" and the number of videos increased by 550% since 2019.⁵⁷ There are several popular deepfake apps that "[a]re often able to circumvent rules within app stores and marketplaces that prohibit apps whose primary use is for pornographic content"⁵⁸ Teen and pre-teen children are using these apps to create

⁵¹ *State v. Edouard*, 854 N.W.2d 421, 448–49 (Iowa 2014), *overruled by* *Alcala v. Marriott Int'l, Inc.*, 880 N.W.2d 699 (Iowa 2016) on other grounds (quoting *State v. Alberts*, 722 N.W.2d 402, 409 (Iowa 2006)).

⁵² Michelle J. Anderson, *From Chastity Requirement to Sexuality License: Sexual Consent and a New Rape Shield Law*, 70 GEO. WASH. L. REV. 51, 97 (February 2002).

⁵³ *Id.*

⁵⁴ Matt Mui, *AI - The Good, Bad, and Scary*, LEVELBLUE (Apr. 1, 2024), <https://cybersecurity.att.com/blogs/security-essentials/ai-the-good-bad-and-scary> [<https://perma.cc/7CQW-JEJ5>].

⁵⁵ Katherine Noel, *Journalist Emanuel Maiberg Addresses AI and the Rise of Deepfake Pornography*, INST. OF GLOB. POL. (Apr. 22, 2024), <https://igp.sipa.columbia.edu/news/rise-deepfake-pornography> (on file with the author).

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.*

deepfake porn, and many countries and states have not developed laws to protect the targeted children.⁵⁹

In the U.S., deepfake pornography of children is illegal because it is considered child sexual abuse material, but the “US [sic] doesn’t yet have a federal law regulating AI-generated pornographic content, but Congress is considering proposed legislation”⁶⁰ AI-generated pornography regulation is needed at the federal level to target the specific issue, protect children who may not easily recover under state child abuse laws, and provide a legal remedy for adults affected by these issues. Some states have created protections for victims of AI-generated pornography, but there is a lack of federal regulation to guide states and ensure uniform protection across jurisdictions. The lack of federal law and the corresponding disparities have not gone unnoticed. U.S. legislators have been attempting to pass the Disrupt Explicit Forged Images and Non-Consensual Edits (DEFIANCE) Act, which “[a]ims to stop the proliferation of nonconsensual, sexually-explicit content.”⁶¹ This legislation, if passed, would create a civil remedy for victims “if those who created the deepfakes knew, or ‘recklessly disregarded’ that the victim did not consent to its making.”⁶² A successful claim under the DEFIANCE Act would allow the victim to recover “actual damages sustained by the individual, which shall include any profits of the defendant that are attributable to the conduct at issue”⁶³ Therefore, any profits a perpetrator receives from posting AI-generated pornography would be issued to the victim.

With this changing technology, “anyone can be a victim [of nonconsensual porn]” whether they engage in sexual acts or not, and this shift has created more empathy and less victim-blaming.⁶⁴ Since AI-generated pornography is created using deepfake technology, there is no “just-world” bias because “the only thing [the victim] did was have a body.”⁶⁵ As a result, there is a general consensus that the proposed law should take effect, with

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ Padilla, *supra* note 5.

⁶² Susie Ruiz-Lichter, *Why the Taylor Swift AI Scandal Is Pushing Lawmakers to Address Pornographic Deepfakes*, NAT’L L. REV. (Apr. 22, 2024), <https://natlawreview.com/article/why-taylor-swift-ai-scandal-pushing-lawmakers-address-pornographic-deepfakes> [https://perma.cc/6VRZ-9KSC] (quoting the draft language of the DEFIANCE Act).

⁶³ DEFIANCE Act of 2024, S.3696, 118th Cong. § 3(b)(4) (2024).

⁶⁴ Padilla, *supra* note 5.

⁶⁵ *Id.* (quoting an interview for the article with Carrie Goldberg, a lawyer who represents victims of nonconsensual porn).

the strongest opposition being from young men, while young women are strongly in favor of the legislation.⁶⁶ This stark contrast is likely because young women and girls are disproportionately the victims of nonconsensual pornography dissemination.⁶⁷

There are organizations, such as #MyImageMyChoice, dedicated to helping victims of image-based sexual abuse and advocating for reform.⁶⁸ Specifically, large technology companies turn a blind eye to nonconsensual porn content or do little to help remove that content when they have the power to do so; instead, these companies profit from victims' misfortune.⁶⁹ For example, Taylor Swift was pictured in graphic, deepfake images posted on "X" (formerly "Twitter"), perpetuating misogynistic stereotypes about women.⁷⁰ This monumental turning point highlighted the dangers of AI-generated pornography and the growing need for a legal remedy to protect victims of nonconsensual pornography. Nonconsensual pornography victims, deepfake or otherwise, are all blameless in the crimes committed against them. The dangers of technology must spur society into action and protect the victims of these heinous crimes.

C. Federal Law Limitations on Reform

The First Amendment protects freedom of speech, which includes digital content posted online. This means that state governments are limited in what speech regulations they can impose on host websites. In 1996, Congress passed the Communications Decency Act (CDA), including Section 230, which gave "limited federal immunity to providers and users of interactive computer services" because these providers may not "be treated as the publisher or speaker of any information provided by another information content provider."⁷¹ As such, host sites may not be held liable for third-party content, including the transmission and removal of user-generated content. The original legislative purpose of the CDA was "to prevent minors from gaining access to sexually explicit materials on the internet" by prohibiting the transmission of obscene or indecent messages to minors.⁷² However, ironically "[i]n 1997, the U.S. Supreme Court struck down the portions of the

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ #MYIMAGEMYCHOICE, <https://myimagemychoice.org> (on file with the author).

⁶⁹ Padilla, *supra* note 5.

⁷⁰ *Id.*

⁷¹ VALERIE C. BRANNON & ERIC N. HOLMES, CONG. RSCH. SERV., R46751, *SECTION 230: AN OVERVIEW*, 1, 2 (2024) (quoting 47 U.S.C. § 230(c)(1)) (summarizing the federal protections for host sites under CDA § 230).

⁷² Sara L. Zeigler, *Communications Decency Act and Section 230 (1996)*, FREE SPEECH CTR. (July 5, 2024), <https://firstamendment.mtsu.edu/article/communications-decency-act-and-section-230> [https://perma.cc/Z29V-43XX].

Communications Decency Act that criminalized the transmission of obscene, indecent and patently offensive material, finding that the law was overbroad and criminalized speech protected by the First Amendment[.]”⁷³ thus protecting the platforms that profit off of sharing sexual content, including with minors. CDA § 230’s immunity provisions have consistently protected platforms hosting sexual predators and terrorist groups, allowing them to aid in their users’ criminal activity, profit from it, and incur no legal liability.⁷⁴

The scope of First Amendment protections under CDA § 230 was under review by the United States Supreme Court this past term in *Free Speech Coalition v. Paxton*.⁷⁵ A Texas law implementing age restrictions on pornographic sites by requiring identity verification was at issue. The Texas legislature passed H.B. 1181, which “regulat[es] commercial entities that publish or distribute material on internet websites, including social media platforms, where more than one-third of the content is sexual material harmful to minors.”⁷⁶ Opponents to the bill argue that H.B. 1181 violates First Amendment protections and CDA § 230 immunity for host sites.⁷⁷ The district court issued a preliminary injunction under a strict scrutiny standard of review, whereas the U.S. Court of Appeals for the Fifth Circuit vacated the injunction as to the age requirement under a rational basis standard of review.⁷⁸ The United States Supreme Court ruled that the Texas law was constitutional under intermediate scrutiny, thus allowing state legislatures to have more leeway to implement protections for victims of nonconsensual pornography.⁷⁹ Otherwise, states would have been confined to federal law under the Supremacy Clause and, therefore, would have had to explore new protection mechanisms that do not rely on host site regulation beyond the limitations of CDA § 230.

Under CDA § 230, some statutory exceptions limit this broad immunity for host sites, such as exceptions for “suits brought under federal criminal law, intellectual property law, any state law ‘consistent’ with Section 230, certain privacy laws applicable to electronic communications, or certain

⁷³ *Id.*

⁷⁴ Danielle Keats Citron & Benjamin Wittes, *The Internet Will Not Break: Denying Bad Samaritans § 230 Immunity*, 86 FORDHAM L. REV. 401, 402–03 (2017).

⁷⁵ *Free Speech Coal., Inc. v. Paxton*, 606 U.S. 461, 478 (2025).

⁷⁶ *Free Speech Coalition, Inc. v. Paxton*, OYEZ, <https://www.oyez.org/cases/2024/23-1122> [<https://perma.cc/D7DX-GP5M>].

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ *Free Speech Coal.*, 606 U.S. at 478.

federal and state laws relating to sex trafficking.”⁸⁰ However, these exceptions do not apply to the victims of nonconsensual pornography dissemination. Instead, host sites are allowed to profit from user-generated content, even if that comes at the expense of victims of image-based sexual abuse on their site. These sites are “pretty sneaky in how they hide the fact that people use their technology for this abuse.”⁸¹ Victims can request that host sites remove the content, but the host sites do not have to comply because “nothing compels them to do so” under First Amendment protections and the lack of federal guidelines on this issue.⁸² Congress has drafted several bills proposing more exceptions for § 230, including exceptions for child sexual exploitation, but so far, nothing has taken effect.⁸³ While government censorship is a valid concern for websites, the internet has become a platform for graphic and extremist content, thus facilitating criminal activity.⁸⁴ As discussed further below, host sites should have legal obligations to remove nonconsensual pornography when reported and take reasonable steps to prevent nonconsensual pornography from being shared.

D. Iowa “Revenge Porn” Law in Practice

In *State v. Miller*, the Iowa Supreme Court held that the defendant’s posting of nonconsensual porn was not sexually motivated, and therefore, he would not be placed on the sex offender list.⁸⁵ Chief Justice Christensen’s lone dissenting opinion highlighted the importance of states implementing nonconsensual pornography dissemination laws.⁸⁶ Shortly after the decision, the Iowa legislature passed a revenge pornography statute. As of July 2024, nonconsensual pornography dissemination, also known as revenge pornography, is punishable under criminal and civil law in Iowa. Before these laws were implemented, victims of nonconsensual pornography dissemination could only recover under an invasion of privacy claim, such as

⁸⁰ VALERIE C. BRANNON & ERIC N. HOLMES, CONG. RSCH. SERV., R46751, *SECTION 230: AN OVERVIEW*, 1, 2 (2024) (providing some limits on the federal host site protections under CDA § 230).

⁸¹ Noel, *supra* note 55 (quoting investigative journalist and cofounder of 404 Media Emanuel Maiberg).

⁸² Patricia Spiccia, *The Best Things in Life Are Not Free: Why Immunity Under Section 230 of the Communications Decency Act Should Be Earned and Not Freely Given*, 48 VAL. U.L. REV. 369, 411 (2013).

⁸³ VALERIE C. BRANNON & ERIC N. HOLMES, CONG. RSCH. SERV., R46751, *SECTION 230: AN OVERVIEW*, 1, 2 (2024) (citing bills such as Holding Sexual Predators and Online Enablers Accountable Act, S. 5012, 116th Cong. § 5 (2020)); EARN IT Act of 2020, S. 3398, 116th Cong. § 5 (2020). *See also* STOP CSAM Act of 2023, S. 1199, 118th Cong. § 5(e) (2023); END CSAM Act, S. 823, 118th Cong. § 5(g) (2023).

⁸⁴ *See* Danielle Keats Citron, *Extremist Speech, Compelled Conformity, and Censorship Creep*, 93 NOTRE DAME L. REV. 1035, 1053 (2018).

⁸⁵ *State v. Miller*, 4 N.W.3d 29, 34–35 (Iowa 2024).

⁸⁶ *Id.* at 43–45.

intentional infliction of emotional distress or public disclosure of private facts.⁸⁷ However, these claims were not designed for nonconsensual pornography claims, so many gaps or loopholes in the law allowed offenders to escape potential liability.⁸⁸

1. Civil Liability

Since the goal of criminal law is to punish the perpetrator, rather than make the victim whole,⁸⁹ Iowa has passed legislation making nonconsensual pornography a civil action as well. The threat of dissemination of nonconsensual porn, commonly referred to as “sextortion,” is also a potential cause of action.⁹⁰ In addition to pressing criminal charges, victims can now recover damages under civil law, resulting in punishment for the offender and the ability to make the victim financially whole.

To recover under the new civil revenge pornography law, (1) the depicted individual must be identifiable or include identifying characteristics, (2) the plaintiff must suffer harm, and (3) the defendant must have known or acted with reckless disregard of all of the following: (a) the depicted individual did not consent to the disclosure, (b) the intimate image was private, and (c) the depicted individual was identifiable.⁹¹ To defend against this civil claim in Iowa, one must show they had affirmative consent from the depicted individual; silence or lack of protest is not considered consent.⁹² There is also no “sexting defense,” meaning that consent is non-transferable, so if the depicted individual sends the image to a person consensually, it is still illegal to share that image with other parties.⁹³

There are three primary statutory exceptions to the civil nonconsensual pornography law in Iowa. A person cannot be held civilly liable if they can prove that disclosure of, or a threat to disclose, an intimate image was (1) made in good faith to law enforcement, a legal proceeding, or in medical education or treatment; (2) made in good faith in the reporting or

⁸⁷ GRL Law, *S2E10: The Ultimate Revenge – Fighting Back Against Revenge Porn Offenders*, YOUTUBE (Nov. 1, 2023), <https://www.youtube.com/watch?v=apPZnKG0pO4> [<https://perma.cc/JE5M-33S7>].

⁸⁸ *Id.*

⁸⁹ *The Key Difference Between a Crime and a Tort*, CASEPACER, <https://casepacer.com/resources/difference-between-a-crime-and-a-tort> [<https://perma.cc/B6SG-VFQU>].

⁹⁰ IOWA CODE ANN. § 659A.3 (West 2023).

⁹¹ *Id.*

⁹² IOWA CODE ANN. § 659A.2 (West 2021).

⁹³ GRL Law, *supra* note 87.

investigation of unlawful or unsolicited and unwelcome conduct; (3) related to a matter of public concern or the public interest; (4) reasonably intended to assist the depicted individual; or (5) the defendant is a person responsible for the care of the child, so long as the image was not otherwise prohibited by law or made for sexual arousal, sexual gratification, humiliation, degradation, or monetary or commercial gain.⁹⁴ The Iowa legislature passed these exceptions to allow, in good faith, for legal and medical professionals to continue their work, parents to post naked baby pictures, and concerned individuals to help the depicted individual through reporting.⁹⁵ The Iowa legislature clarified that the matters of public concern or public interest referenced in the subsection do not include “[d]isclosure of, or a threat to disclose, an intimate image . . . solely because the depicted individual is a public figure.”⁹⁶

A plaintiff can recover damages for nonconsensual pornography dissemination or threat of dissemination in Iowa.⁹⁷ These damages include recovery for a plaintiff’s emotional harm, which does not require a physical manifestation.⁹⁸ The types of damages recoverable include actual, punitive, and statutory damages.⁹⁹ Actual damages include lost wages, counseling costs, medical expenses, professional reputation, and attorneys’ fees and costs.¹⁰⁰ Punitive damages are meant to deter future offenders from similar conduct.¹⁰¹ Nonconsensual pornography victims can also recover the profits the perpetrator earned from the content.¹⁰² For example, in *Jane Doe (D.L.) v. Jackson*, a Texas jury awarded the plaintiff actual damages of \$200,000 and punitive damages of \$1 billion for harassment, specifically image-based sexual abuse.¹⁰³

In Iowa, if a depicted individual does not want to formally press charges but can prove all the civil elements, they are statutorily entitled to damages of up to \$10,000 per defendant.¹⁰⁴ Additionally, because the act is intentional,

⁹⁴ IOWA CODE ANN. § 659A.4 (West 2021).

⁹⁵ GRL Law, *supra* note 87.

⁹⁶ IOWA CODE ANN. § 659A.4 (West 2021).

⁹⁷ IOWA CODE ANN. § 659A.6 (West 2021).

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ GRL Law, *supra* note 87.

¹⁰¹ *Id.*

¹⁰² IOWA CODE ANN. § 659A.6 (West 2021).

¹⁰³ Christopher J. Brooks, *Jury Awards Texas Woman \$1.2 Billion in Revenge Porn Case*, CBS NEWS (Aug. 15, 2023, 12:41 PM EDT), <https://www.cbsnews.com/news/revenge-porn-texas-marques-jamal-jackson> [<https://perma.cc/7T7Y-ZRZP>].

¹⁰⁴ IOWA CODE ANN. § 659A.6 (West 2021).

the damage award cannot be declared in bankruptcy proceedings.¹⁰⁵ Thus, these judgments may follow the offenders for life. Any party can be sued under this cause of action, as a “person” includes any legal entity under the statute, so business assets may be recoverable under certain factual circumstances.¹⁰⁶ Uniquely, this cause of action in Iowa has a four-year statute of limitations, measured from the date of reasonable discovery, which is double the two-year standard for personal injury claims.¹⁰⁷ This extension is important, given that digital discovery and investigation are extensive in these cases.¹⁰⁸

2. Criminal Liability

Iowa classifies nonconsensual porn dissemination of adults under the harassment section of the Iowa criminal code. One may be held criminally liable for harassment if they:

Disseminate[], publish[], distribute[], post[], or cause[] to be disseminated, published, distributed, or posted a [photograph or film] showing another person in a state of full or partial nudity or engaged in a sex act, to which the other person has not consented to the dissemination, publication, distribution, or posting.¹⁰⁹

For criminal liability to be invoked, one must act with the “intent to intimidate, annoy, or alarm another person . . . [who is] recognizable by the person’s face, likeness, or other distinguishing features, whose image is used to create, adapt, or modify a visual depiction to depict that other person. . . .”¹¹⁰ The intent element satisfies the mens rea requirement of the crime, thus invoking criminal liability; however, there must be specific intent to intimidate, annoy, or alarm the depicted individual. This specific intent requirement focuses on revenge, implicitly blaming victims for the perpetrators’ intent rather than punishing perpetrators for acting on that intent. Specific intent limits recovery when “the vast majority of perpetrators—nearly 80%—report[ed] being motivated by something other than the desire to hurt the victim.”¹¹¹ Rather than seeking revenge, as the

¹⁰⁵ GRL Law, *supra* note 87.

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ IOWA CODE ANN. § 708.7 (West 2024).

¹¹⁰ *Id.*

¹¹¹ State v. Miller, 4 N.W.3d 29, 38 (Iowa 2024) (citing Franks, *supra* note 27, at 1–2).

name suggests, the perpetrators' intent is often more complex, including "greed, voyeurism, and self-aggrandizement."¹¹² These revenge intent requirements limit closure for victims, tie the hands of prosecutors, and perpetuate victim-blaming, as will be further discussed below.

Nonconsensual pornography dissemination of adults is an aggravated misdemeanor and is punishable by up to two years in prison and up to an \$8,540 fine per charge for adults.¹¹³ Nonconsensual pornography dissemination of children is classified as sexual exploitation of a minor and illegal under the Iowa criminal code.¹¹⁴ Iowa Code § 728.12 makes it a crime "to employ, use, persuade, induce, entice, coerce, solicit, knowingly permit, or otherwise cause or attempt to cause a minor or a law enforcement officer or agent posing as a minor to engage in a prohibited sexual act or in the simulation of a prohibited sexual act."¹¹⁵ The law requires the perpetrator to "know, or have reason to know, or intend that the act or simulated act may be photographed, filmed, or otherwise preserved in a visual depiction."¹¹⁶ If the victim photographed is a minor, nonconsensual pornography dissemination is a federal felony offense, as it is child pornography and is punishable by a minimum of 15 years in prison.¹¹⁷

III. ANALYSIS

Iowa can lower the evidentiary barriers of its nonconsensual porn dissemination statutes by (1) creating a new criminal code section specific to nonconsensual pornography dissemination and (2) regulating host sites to prevent these intimate images from circulating. By lowering evidentiary barriers, Iowa's "revenge porn" laws will help lessen the stigma that victims of sexual crimes face, thus lowering societal barriers to recovery. By lowering these obstacles to justice, sexual crime victims are encouraged to speak out against their perpetrators, rather than being vilified, thereby promoting judicial equity and gender equality, as "revenge porn" victims are disproportionately women.

A. Minimizing Barriers in "Revenge Porn" Cases

The Iowa "revenge porn" statutes should minimize the evidentiary and societal barriers to recovery that women and minors face to promote equity and lessen disparate outcomes in reporting and litigation success rates. While some evidentiary barriers are necessary to prevent frivolous lawsuits, the state

¹¹² *Id.*

¹¹³ H.F. 2240, 90th Gen. Assemb. (Iowa 2024).

¹¹⁴ IOWA CODE ANN. § 728.12 (West 2025).

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ 18 U.S.C.A. § 2252 (West 2024).

legislative and judicial systems must work in tandem to ensure these barriers are properly set and not unduly burdensome on either party. Excessive burdens on the victim will unnecessarily impede recovery and chill justice.

1. Evidentiary Issues

The evidentiary process is critical in “revenge porn” cases because sexual crimes historically included victim-blaming, resulting in unnecessary and painful investigations into the victims’ personal lives. The pain of reliving the trauma and the likelihood that the victim will not be believed are weighed against the pursuit of justice. These issues about societal barriers will be covered in more detail below, but it is important to note that both types of barriers form a symbiotic relationship, each working in unison to preclude recovery. Just-world bias, which deeply embeds victim-blaming into the human psyche, also seeps into the law, causing unnecessary evidentiary barriers that victims must overcome to recover for the wrongs committed against them. Iowa can lower evidentiary barriers by (1) creating a new criminal code section specific to nonconsensual pornography dissemination and (2) regulating host sites to prevent these intimate images from circulating.

a. Iowa Code Reformation

Unlike Iowa Code § 659A, which governs civil liability, Iowa Code § 708.7, which governs criminal liability, does not have its own statute. Instead, Iowa Code § 708.7 criminalizes nonconsensual pornography dissemination under the harassment statute. This framework is troublesome because the intent necessary to commit harassment and nonconsensual pornography dissemination is different. This oversight is likely because of society’s oversimplified understanding of the legal issue, culminating in the coined phrase “revenge porn,” which implies that the victim acted wrongfully towards the disseminator of the nonconsensual pornography and that the perpetrator acted with the intent to harm the victim. However, nonconsensual pornography dissemination is far more nuanced than Iowa Code § 708.7.

For instance, the intent necessary to commit harassment under § 708.7 is “to intimidate, annoy, or alarm another person”¹¹⁸ but, again, “the vast majority of perpetrators—nearly 80%—report[ed] being motivated by something other than the desire to hurt the victim.”¹¹⁹ Rather than revenge, perpetrators are seeking “greed, voyeurism, and self-aggrandizement.”¹²⁰

¹¹⁸ IOWA CODE ANN. § 708.7 (West 2024).

¹¹⁹ State v. Miller, 4 N.W.3d 29, 38 (Iowa 2024) (citing Franks, *supra* note 27, at 1–2).

¹²⁰ *Id.*

These complexities surrounding intent must be taken into account in the Iowa Code if any meaningful change is to occur. Prosecutors must exercise discretion in deciding which perpetrators to charge, but if 80% of perpetrators do not satisfy the intent requirement of harassment, they will escape liability simply because they were seeking personal gratification rather than harming the victim. In other contexts, criminal intent includes personal gratification if the perpetrator knew their actions were likely to cause the requisite harm. For example, if one were to set fire to a random building for personal gratification, like pyromaniacs, rather than to harm the building or others, the criminal intent for arson is still satisfied. Likewise, when one commits the crime of disseminating nonconsensual pornography for personal gratification, the perpetrator is no less culpable of the crime. So, why is this group of perpetrators subject only to civil liability for the same act?

The intent to disseminate intimate images of another person without their affirmative consent should be criminalized when the perpetrator “knows or should have known that the person in the image has not consented to the dissemination.”¹²¹ While the legislature may be concerned about this broad language invoking criminal liability, Illinois has this intent requirement and models how the statute works well in practice. Illinois has one of “the strongest intimate privacy law[s] in the country . . . [and] the law is a constitutionally permissible protection of the right to intimate privacy.”¹²² This intent requirement would not include disseminating pornography accidentally or with a reasonable belief that the depicted individual gave consent for the content to be shared. In civil actions, Iowa law requires affirmative consent from the depicted individual as proof in a defense, but in criminal actions, only a reasonable belief of consent is required. Reasonableness standards decided by juries often reflect societal views,¹²³ so societal barriers persist even after evidentiary issues are resolved.

Illinois is proof that strong revenge porn laws are constitutional and practical. Of course, the court must balance the interests of both parties to ensure that neither party gains an unfair advantage, but there are several stages in the legal process to prevent this. The intent element is only one stage. The perpetrator’s level of knowledge and the factual circumstances of the case also factor into the decision, thereby providing additional

¹²¹ 720 ILL. COMP. STAT. ANN. 5/11–23.5 (West 2025).

¹²² Franks, *supra* note 27, at 6 (explaining that the United States Supreme Court declined to exercise judicial review of Illinois’ privacy law, thus letting the Illinois rule stand).

¹²³ Juries are made up of ordinary people in society and are tasked with deciding what a reasonable person would do in the case’s given scenario. Reasonableness is not what an average or ideal person would do; rather it is a mix between what is common and good. Since juries decide what reasonableness means, societal norms often play a vital role in this decision, thus impacting legal outcomes. See Kevin Tobia, *Legal Standards Invoke the ‘Reasonable Person’*. *Who is It?*, AEON (Jan. 25, 2019), <https://aeon.co/ideas/legal-standards-invoke-the-reasonable-person-who-is-it> [<https://perma.cc/WTV2-PYFE>].

opportunities to mitigate the circumstances. Iowa must alter the intent element so as not to preclude a victim from recovery altogether. Otherwise, many victims will be advised against pressing criminal charges because the perpetrator disseminated the victim’s intimate images for personal gratification rather than harm to the victim. Both instances are equally harmful and culpable. Therefore, victims should all be granted the same protections under the law.

Classifying nonconsensual pornography dissemination under the harassment statute limits the victim’s recourse options, ties the hands of prosecutors, and perpetuates victim-blaming by creating unnecessary evidentiary barriers. Therefore, the Iowa Legislature should restructure the Iowa criminal code to make nonconsensual pornography dissemination a separate offense from harassment. This reclassification will lower evidentiary barriers so that victims are more likely to bring claims against their assailants, thus benefiting all victims, especially women, who typically make up 90% of “revenge porn” victims.¹²⁴

b. Host Site Regulation

Iowa must also regulate host sites to prevent the illegal circulation of non-consensually distributed intimate images and to prevent these host sites from profiting off the crime of “revenge porn.” Currently, no federal law protects “revenge porn” victims on these sites. Websites that host illegal content, such as nonconsensual pornography, are not incentivized or legally obligated to remove the content unless it specifically violates copyright or other applicable federal criminal laws.¹²⁵ While federal law criminalizes child sexual exploitation, creating an obligation to remove nonconsensual pornography, host sites still face no penalty if they do not remove the illegal content. Instead, host sites continue to profit from this illegal content. Courts have interpreted the federal criminal law exception to apply when the host sites induce or develop illegal content.¹²⁶ If a user posts nonconsensual pornography without a host site’s inducement or development, then host sites still have no legal obligation to remove said illegal content. Thus, judicial interpretations illustrate the broad immunity power of CDA § 230 and the necessity for an explicit statutory exception to protect nonconsensual

¹²⁴ See *Miller*, 4 N.W.3d at 44.

¹²⁵ *Frequently Asked Questions*, CYBER C.R. INITIATIVE, <https://cybercivilrights.org/faqs> [<https://perma.cc/273D-68VY>]; Telecommunications Decency Act of 1996, S.652, 104th Cong. § 501 (1996) (referring to Communications Decency Act of 1996).

¹²⁶ See Ash Johnson & Daniel Castro, *The Exceptions to Section 230: How Have the Courts Interpreted Section 230?*, ITIF (Feb. 22, 2021), <https://itif.org/publications/2021/02/22/exceptions-section-230-how-have-courts-interpreted-section-230> [<https://perma.cc/QG9C-QUB4>].

pornography victims from exploitation by their perpetrators and host sites.

Congress's attempts to rectify this legal ambiguity and protect sexually exploited children by creating a clear statutory exception to CDA § 230 have been unsuccessful.¹²⁷ Congress's failed attempts to clarify the current law have been going on for far too long. Their indecision allows the barriers to recovery to continue, preventing victims from seeking legal recourse against their offenders. Congress has the power to prevent the sexual exploitation of children before it occurs, but it has not. Adult victims of nonconsensual pornography are even more vulnerable to host site abuse of discretion because nonconsensual pornography dissemination is not a federal crime, nor is it a formal statutory exception to CDA § 230. Thus, host sites are free to profit off the nonconsensual pornography of victims at the expense of women's and children's right to privacy and bodily autonomy.

Thus, it is time for Congress to act by creating a statutory exception for nonconsensual pornography, opening host sites to liability for allowing users to utilize their platform for illegal gain. States are not prohibited from regulating host sites, but there are federal limitations on the types of regulation they may impose. Iowa legislators must regulate host sites to the extent allowed by federal law. Then, Iowa legislators should advocate for federal regulation reform by creating an exception under CDA § 230.

First, Iowa must protect "revenge porn" victims. The best way to do this is through regulating the medium by which the victims are harmed—the host sites themselves. While states cannot entirely prevent crimes, they can help reduce victim harm by limiting the breadth of dissemination. Although states are limited by federal law under the Supremacy Clause,¹²⁸ states have some leeway to regulate pornographic sites. For example, several states are implementing age restrictions on pornographic sites by requiring identity verification.¹²⁹ Not only would these restrictions protect minors from viewing sexually explicit content, but they would also streamline recovery for "revenge porn" victims. Perpetrators hiding behind host site protections and anonymity make the discovery process far more difficult and expensive for

¹²⁷ See VALERIE C. BRANNON & ERIC N. HOLMES, CONG. RSCH. SERV., R46751, SECTION 230: AN OVERVIEW 2 (2024), (citing bills such as Holding Sexual Predators and Online Enablers Accountable Act of 2020, S. 5012, 116th Cong. § 5 (2020); EARN IT Act of 2020, S. 3398, 116th Cong. § 5 (2020)). See also STOP CSAM Act of 2023, S. 1199, 118th Cong. § 5(e) (2023); END CSAM Act, S. 823, 118th Cong. § 5(g) (2023)).

¹²⁸ The Supremacy Clause makes federal law "the supreme law of the land." Thus, if state law conflicts with federal law, the federal law takes precedence over state law. *Supremacy Clause*, LEGAL INFO. INST. (June 2024), https://www.law.cornell.edu/wex/supremacy_clause [<https://perma.cc/Q52S-3ZDN>].

¹²⁹ See Juan Salinas II, *U.S. Supreme Court Will Hear Challenge to Texas' Age Verification Requirement for Porn Sites*, TEX. TRIB. (July 2, 2024, 11:00 AM CT), <https://www.texastribune.org/2024/07/02/texas-pornography-age-verification-supreme-court> [<https://perma.cc/76VK-XLMS>]; *Free Speech Coal., Inc. v. Paxton*, 606 U.S. 461, 478 (2025).

victims to recover. Thus, requiring age restrictions to verify user identities would lower evidentiary barriers for victims and deter perpetrators from disseminating nonconsensual pornography. Therefore, Iowa should adopt these regulations on pornographic websites.

Second, Iowa legislators must push for federal reform of CDA § 230. CDA gives host sites limited federal immunity because they are not considered “the publisher or speaker of any information provided by another information content provider.”¹³⁰ Under this broad federal law protection, host sites cannot be sued for their users’ illegal content disseminated on their sites and are not obligated to remove the content, absent copyright or federal criminal law violations.¹³¹ Congress passed CDA in 1996 to promote technological innovation at the expense of child sexual exploitation. Almost 30 years later, CDA has seen little reform despite society’s growing understanding of the dangers of technology. While technological innovation remains important, legislators’ increased knowledge of the threats technology poses makes it unacceptable to ignore the harm to these victims any longer. These policies disproportionately harm women and children, and no amount of technological innovation should be worth their exploitation. Allowing host sites to profit off illegal content without any legal obligation to remove it or take preventative measures advances no legitimate public interest. The current incentivization structure for perpetrators and host sites encourages nonconsensual pornography dissemination at the expense of vulnerable victims: since users and sites can profit off this content with no legal obligation to remove profit-generating content, user uploads are protected under the First Amendment and formalized under CDA § 230. These protections, however, have gone too far.

Iowa legislators should push for federal reform of CDA § 230 to create protections for victims of image-based sexual abuse by adding nonconsensual pornography dissemination as a statutory exception. Expanding statutory exceptions to CDA § 230 would protect “revenge porn” victims by drastically altering the host site environments. Host sites would have legal obligations to remove illegally disseminated pornographic content and, therefore, would be incentivized to take preventive measures to ensure the content is consensual, that all depicted individuals have given affirmative consent, and that users generating this type of content are verified. Not only will these safeguards significantly lower the risk of nonconsensual pornography dissemination, but it also has the potential to decrease other sexual crime prevalence, such as sex trafficking, abuse, assault, and domestic violence.

¹³⁰ VALERIE C. BRANNON & ERIC N. HOLMES, CONG. RSCH. SERV., R46751, SECTION 230: AN OVERVIEW 2–3 (2024) (citing 47 U.S.C. § 230(c)(1)).

¹³¹ *See id.*

These sexual crimes are often correlated with nonconsensual pornography dissemination.¹³² Under CDA § 230, perpetrators can profit from nonconsensual pornography dissemination, which incentivizes sexual predators to commit this crime for the very same reason they can also escape liability under state law. For example, under Iowa Code § 708.7, a perpetrator can escape liability by having the intent of personal gratification, such as “greed, voyeurism, and self-aggrandizement.”¹³³ A statutory exception to CDA § 230 eliminates the problematic incentive structure, thus lowering evidentiary barriers victims face and leading to fewer sexual crimes committed against women and minors.

For example, the European Union (EU) expanded its criminal child abuse laws to include AI-generated and live-stream content.¹³⁴ The EU’s impact assessment concluded that this expansion would lower online child sexual abuse and exploitation by providing “improvements in identification, protection and support of victims of child sexual abuse and would ensure a more effective prevention.”¹³⁵ AI-generated pornography poses a significant threat to society at large, but specifically harms young women and girls—the primary targets of deepfakes.¹³⁶ Popular deepfake apps are often used to create this form of nonconsensual pornography.¹³⁷ Under similar legislation in the U.S., for example, the TAKE IT DOWN Act of 2025, host sites, including deepfake apps, may be subject to criminal liability if they knowingly publish nonconsensual pornography or fail to remove this content within 48 hours of receiving a “valid removal request.”¹³⁸ The Act gives host sites one year from the date of enactment to create a process for individuals to notify the platform of removal requests for nonconsensual pornography dissemination.¹³⁹ This removal requirement empowers victims, holds host sites accountable, and helps narrow the scope of CDA § 230; however, states should continue these protection efforts. Host sites should have legal obligations to prevent perpetrators from using their platforms for criminal activity in the first place, with reasonable prevention and removal procedures.

¹³² Franks, *supra* note 27, at 4.

¹³³ State v. Miller, 4 N.W.3d 29, 38 (Iowa 2024) (citing Franks, *supra* note 27, at 1–2).

¹³⁴ *Q&A - The Fight Against Child Sexual Abuse Receives New Impetus with Updated Criminal Law Rules*, EUROPEAN UNION (Feb. 5, 2024), https://ec.europa.eu/commission/presscorner/detail/en/qanda_24_643 [<https://perma.cc/3PRN-HNPP>].

¹³⁵ *Id.*

¹³⁶ Noel, *supra* note 55.

¹³⁷ *Id.*

¹³⁸ TAKE IT DOWN Act, S. 146, 119th Cong. (2025); Press Release, Problem Solvers Caucus, Problem Solvers Caucus Endorses TAKE IT DOWN Act (Apr. 3, 2025) [<https://perma.cc/WQZ7-DFLY>].

¹³⁹ *Id.*

Congress can advance technological innovation while still imposing reasonable regulations on host sites to prevent this technology from being used criminally. Thus, it has become essential to create an explicit statutory exception to CDA § 230 to protect all nonconsensual pornography victims from harm that is preventable with host site regulation. Legislators must impose legal obligations on host sites to eliminate financial incentives to use them as a medium for criminal activity. These financial incentives instill strong motivations in perpetrators to commit sexual crimes and even profit from them by committing more crimes—nonconsensual pornography dissemination. The law is currently incentivizing criminal activity and letting women and children pay the price as the primary victims of sexual crimes, all to protect the technology sector. However, these issues are not mutually exclusive. Congress should create an explicit statutory exception to CDA § 230 to protect all nonconsensual pornography victims from this preventable harm through host site regulation.

2. Societal Issues

The evidentiary barriers cited above are rooted in just-world bias and gender stereotypes. In sexual crimes, implicit bias takes the form of victim-blaming and stigmatizing women’s sexuality. As discussed in Section II, such actions contribute to rape culture. Our current legal system reflects and reinforces these systemic issues by failing to address implicit bias. These implicit biases create disparities in the law, which result in disparate legal outcomes for sexual crime victims. The overwhelming majority of sexual crime victims are women and minors who suffer from these legal disparities.¹⁴⁰ These victims are unlikely to seek justice through the legal system, as rape culture places the blame on victims for their perpetrators’ wrongdoing. Victims, especially female victims, risk facing public backlash and reliving the trauma and blame for tempting their perpetrators, who typically are men.¹⁴¹ Public backlash can worsen a victim’s mental health and even result in victims committing suicide.¹⁴² The powerlessness victims feel¹⁴³ is only worsened by the legal system that perpetuates social barriers, culminating in public backlash and ultimately deterring victims from recovery.

Victim-blaming and the sexual suppression of women are socially

¹⁴⁰ Franks, *supra* note 27, at 3.

¹⁴¹ *Id.*

¹⁴² *Id.*

¹⁴³ Ana Murça et al., *Prevalence and Impact of Revenge Pornography on a Sample of Portuguese Women*, 28 *SEXUALITY & CULTURE* 96, 98 (2023).

constructed and taught as early as childhood, but this also means they can be unlearned. While the legal system cannot single-handedly change societal views, it can shape the way society thinks about sexual crimes by enforcing the law, minimizing implicit bias, and lowering evidentiary barriers for victims. By lowering barriers to recovery and changing the rhetoric, sexual crime victims will be encouraged to seek justice using the legal system. Over time, the law can promote social change, leading to more equitable results for women and minors.

B. Minimizing Implicit Bias in “Revenge Porn” Prosecutions

Courts should aim to produce equitable results in nonconsensual pornography cases and combat the disparities women and minors face as prevalent victims of image-based sexual abuse by minimizing implicit bias in “revenge porn” prosecutions. Until this point, this Note has primarily focused on barriers to reporting sexual offenses, causing inequitable prosecution, and difficulties in the law to hold perpetrators and host sites accountable, negatively impacting litigation success rates. Now, the focus will shift to minimizing inequities in litigation through educating all parties involved, including attorneys, judges, and jurors. Implicit bias education will lower systemic barriers within the justice system and allow victims to recover from the heinous crimes committed against them, ultimately giving victims a chance to rebuild their lives with closure and integrity. As discussed further below, equitable results in “revenge porn” prosecutions and litigation success rates will help bridge the gap in gender inequality by combating systemic sexism, deeply embedded in the human psyche.

While Iowa has taken steps to counteract implicit bias against victims of sexual assault through rape shield laws, its work is not done. Rape shield laws are only evidentiary rules, thus lowering evidentiary barriers to recovery rather than addressing the issue holistically. Educating all parties involved in the legal process on implicit bias corresponding to gender and sexual crimes helps combat the harmful rhetoric that contributes to rape culture. Education can lead to awareness and engagement with the issues and even spark societal change that destigmatizes sexual crime victims and women’s sexual suppression. This ex parte approach through education, in conjunction with an ex post facto approach of lowering evidentiary barriers, will lead to more equitable outcomes for “revenge porn” victims both in reporting and successful litigation rates. A holistic approach is necessary to counteract the many layers of oppression that “revenge porn” victims face. The purpose of rape shield laws is to encourage reporting, increase prosecutions of sexual crimes, and protect the privacy of victims.¹⁴⁴ To accomplish these goals for all victims of sexual crimes, the legal professionals and jurors who interact with these victims throughout their pursuit of justice must be educated on

¹⁴⁴ *State v. Ogilvie*, 310 N.W.2d 192, 195 (Iowa 1981) (citing *Jerrilee Sutherland, Indiana’s Rape Shield Law: Conflict with the Confrontation Clause*, 9 IND. L. REV. 418 (1976)).

the role they play in creating unnecessary barriers to the victim’s recovery.

First, attorneys and judges must be educated on implicit bias related to gender and sexual crimes through Continuing Legal Education (CLE) by taking an annual implicit bias credit. Legal professionals undertaking this education will heighten their awareness of implicit bias in personal and professional settings, enabling them to recognize how it manifests in their lives. Once recognized, implicit bias can be counteracted. By understanding where these misconceived notions come from, one can consider how implicit bias affects their decisions and adjust their decision-making process accordingly. For each individual, implicit bias may manifest differently depending on one’s own experiences, so there is no one-size-fits-all solution for counteracting implicit bias. For lawyers, recognizing implicit bias may allow them to become more effective advocates for their clients by appealing to the jury’s emotions or logic. For judges, recognizing implicit bias may affect how they draft judicial opinions and jury instructions, thereby changing courtroom dynamics and potentially creating more equitable outcomes. Legal professionals must educate themselves on these matters to lower the disparate impacts that women and minors face as victims of nonconsensual pornography. Without this CLE training, legal professionals in criminal and civil law are not living up to their ethical duties to be zealous advocates and impartial judges.

Second, jurors must also be educated on how implicit bias affects their perception of the victim of a sexual offense through a jury instruction on implicit bias. At the very least, jurors should know and understand that this bias exists so they can identify it in themselves when it occurs. A basic understanding of just-world bias, victim-blaming, and rape culture should be baseline knowledge when sitting on a jury for a case pertaining to a sexual crime. Without proper education, a juror cannot be expected to make an informed decision. Thus, their civic duty cannot be adequately completed, contributing to inequitable outcomes disproportionately affecting women and minors. Jurors often decide reasonableness standards that reflect societal norms, so juries can impose their own collective biases and influence case outcomes. Given their vast discretion, the legal system must limit the scope of this discretion to prevent absurd outcomes that often result from extreme bias. As a preventive measure, an implicit bias jury instruction is necessary to inform jurors of their own potential biases so they do not project them onto victims. While it is reasonable to be concerned about the risk of prejudice in any jury instruction, when done properly, a jury instruction can be impartial and informative without swaying the jury’s decisions.

Alternatively, turning a blind eye to the injustices women and minors face as a result of implicit bias is an injustice in and of itself. Bystander

behavior contributes to rape culture and heightens the barriers victims face. Allowing these barriers to continue imposes unfair burdens on victims, primarily women and girls. This issue goes beyond legal remedies. The law shapes society by setting a standard of acceptable behavior. Currently, over 80% of “revenge porn” perpetrators are escaping criminal liability due to the narrow intent requirements of Iowa Code § 708.7.¹⁴⁵ Also, host sites are incentivized to profit off nonconsensual pornography posted on their platforms because they have no legal obligation to remove or prevent this content from being uploaded.¹⁴⁶ Perpetrators are also incentivized to commit sexual crimes, record them, and disseminate the content for profit because they know they can get away with it.

Under the current American legal system, women and girls are not supported but rather oppressed by the gaps in “revenge porn” laws and the lack of host site regulation. When young girls are raised in a society that perpetuates rape culture so much so that it is ingrained in the law, they are taught that the justice system does not care about them. Instead, the reward for speaking up is more harm and unresolved trauma. Women typically receive worse public backlash for reporting sexual crimes, which can worsen one’s mental health and even result in suicide from embarrassment or shame.¹⁴⁷ Yet, society expects these victims to report sexual crimes and prosecute perpetrators. Realistically, victims are risking their lives, safety, and mental well-being to report the harm done to them.¹⁴⁸ They should not have to put themselves in harm’s way to get the justice they deserve. Victims of sexual crimes deserve to be represented by legislators, legal professionals, and members of society who will not sit idly by while they suffer at the hands of unjust laws and inequitable outcomes.

C. Analyzing the Gender Gap in “Revenge Porn” Statutes

“[N]onconsensual pornography exacerbates gender inequality [as] [w]omen are more likely to be victims of nonconsensual pornography, while men are more likely to be perpetrators.”¹⁴⁹ The gaps in Iowa’s “revenge porn” laws are pathways for perpetrators to escape legal liability for their crimes and for victims to fall through the cracks in the American “justice” system. The gaps in Iowa’s “revenge porn” statutes are twofold: contributing to inequitable legal results and gender inequality across the state. Equitable results in “revenge porn” prosecutions and litigation success rates can bridge

¹⁴⁵ *State v. Miller*, 4 N.W.3d 29, 38 (Iowa 2024) (Christensen, C.J., dissenting).

¹⁴⁶ See VALERIE C. BRANNON & ERIC N. HOLMES, CONG. RSCH. SERV., R46751, SECTION 230: AN OVERVIEW 2 (2024) (highlighting that CDA § 230 provides limited federal immunity to host sites).

¹⁴⁷ Franks, *supra* note 27.

¹⁴⁸ *Id.*

¹⁴⁹ *Id.* at 3.

the gap in gender inequality by combatting the effects of systemic sexism in the law.

Systemic sexism manifests in many ways, as evidenced by the aforementioned barriers disproportionately impacting women and minors related to victim-blaming, just-world bias, and sexual suppression. Women face a double standard, especially when it comes to sexual expression. Women and young girls are sexualized and dehumanized based on their physical appearance and clothes.¹⁵⁰ Yet, when they report this behavior, women are ridiculed, interrogated, and ultimately blamed for the perpetrator’s behavior.¹⁵¹ This form of victim-blaming against women is a way for society to distance itself from the issue and ignore its vulnerabilities to these unpleasant circumstances.¹⁵² Society should be uncomfortable with sexual violence against women. Societal discomfort is a catalyst for change. Women deserve dignity, respect, and bodily autonomy. Moreover, women are invaluable members of our society and workforce. Nonconsensual pornography dissemination that targets women threatens their inherent autonomy and discredits their rights and interests.

The disclosure or threatened disclosure of intimate images chills women’s speech, expression, and professional ambition. Those who are targeted frequently withdraw from various spheres of meaningful activity: work, school, social media, and personal relationships. The chilling effects of nonconsensual pornography include deterring women from vocations such as politics and journalism.¹⁵³

Nonconsensual pornography plays a role in crimes that disproportionately affect women, including intimate partner violence, sexual abuse, sexual assault, and sex trafficking.¹⁵⁴ In acknowledging the correlation between nonconsensual pornography and other forms of sexual violence against women, “revenge porn” legal reform has the potential to lower sexual crime rates altogether. The current gaps in “revenge porn” laws and

¹⁵⁰ Luberti et al., *supra* note 38, at 1–4.

¹⁵¹ Citron & Franks, *supra* note 1, at 347; Franks, *supra* note 27, at 3.

¹⁵² INSIDE S., *supra* note 34.

¹⁵³ Franks, *supra* note 27, at 4 (citing Jill Filipovic, *Wondering Why More Women Don’t Run for Office? Look What Happened to Katie Hill*, GUARDIAN (Nov. 2, 2019, 11:10 AM EDT), <https://www.theguardian.com/commentisfree/2019/nov/02/katie-hill-resignation-women-politics-sexuality> [<https://perma.cc/WTQ4-RWE8>] (example of woman deterred from politics); Michelle Ferrier, *Attacks and Harassment: The Impact on Female Journalists and Their Reporting*, IWJMF 6, 7 (2018) (example of women deterred from journalism)).

¹⁵⁴ *Id.*

enforcement create different levels of incentivization structures for perpetrators to harm women, including nonconsensual pornography. By reforming “revenge porn” laws in Iowa and advocating for federal regulation of host sites, Iowa can send a strong message that sexual violence against women and children is unacceptable. The law is a springboard for societal change, with the potential to dismantle unnecessary barriers to recovery, seek equitable outcomes, and advance gender equality. The Iowa legislature can go further to eliminate sexual violence against women. One way the legislature can do this is by channeling its discomfort into positive legal reform via “revenge porn” statutes and federal host site regulation.

D. The Impact of “Revenge Porn”

Nevertheless, women are suffering the consequences now. Victims of nonconsensual pornography “suffer long-term psychological, personal, and social consequences, given that the spread of explicit content may continue to disturb them throughout their lives.”¹⁵⁵ In a study of 274 Portuguese women ages 18-82, they analyzed the impact “revenge porn” had on victims’ “self-esteem, humiliation, depression, and anxiety”¹⁵⁶ Although this is a highly under-researched field, “revenge porn” is, unfortunately, a “growing phenomenon enhanced by the intensified use of technology.”¹⁵⁷ In fact, this issue has become so prevalent that “approximately one in 25 Americans are either threatened by or are victims of non-consensual image sharing, which equates to approximately 10 million Americans.”¹⁵⁸ Meanwhile, offenders are relishing in the new forms of unrestricted technology platforms because they make it easier to “perpetrate abusive behaviors . . . anonymously, instantaneously, and constantly.”¹⁵⁹ Because the vast majority of nonconsensual pornography targets are women, this suggests social constructs of gender inequality over time.¹⁶⁰

Nonconsensual pornography adversely affects the victim’s mental health.¹⁶¹ As a result of the perpetrator releasing their intimate images without consent, victims suffer “long-term psychological, personal, and social

¹⁵⁵ Murça et al., *supra* note 143, at 96.

¹⁵⁶ *Id.*

¹⁵⁷ *Id.*

¹⁵⁸ *Id.* at 97 (citing DATA & SOC’Y RSCH. INST., NONCONSENSUAL IMAGE SHARING: ONE IN 25 AMERICANS HAS BEEN A VICTIM OF “REVENGE PORN” 3, 4 (2016)).

¹⁵⁹ Murça et al., *supra* note 143, at 98 (citing Karlie E. Stonard, “Technology Was Designed for This”: Adolescents’ Perceptions of the Role and Impact of the Use of Technology in Cyber Dating Violence, 105 COMPUTS. HUM. BEHAV. 1 (2020)).

¹⁶⁰ Vivianne Albuquerque Pereira Cavalcante, *Contemporary Gender Violence: A New Form through Revenge Pornography*, 4 SCI. INTERFACES 59, 60–62 (2016).

¹⁶¹ Murça et al., *supra* note 143, at 98.

negative impact”¹⁶² that may cause persistent disturbance throughout their lives. After one’s intimate images are non-consensually released, victims tend to experience heightened feelings of powerlessness, humiliation, and public shame.¹⁶³ Humiliation was a key point of distinction between “revenge porn” victims and non-victims; however, victims also experience higher levels of anxiety, depression, post-traumatic stress disorder, and suicidal thoughts.¹⁶⁴ “Humiliation is an outcome of interpersonal or social interactions which diminish or even ruin an individual’s psychological well-being and fundamental sense of dignity (worth) by disrupting [e]ffective-emotional organization.”¹⁶⁵ Studies found a high correlation between humiliation and developing mental health issues.¹⁶⁶ In other words, if someone is feeling humiliated, that is a reliable indicator of future mental health issues. Therefore, nonconsensual pornography victims are more vulnerable to mental health issues. In some cases, “revenge porn” victims’ mental health is harmed to the point that they commit suicide.¹⁶⁷ This humiliation is extremely harmful to one’s psychological, emotional, and physical well-being; it is more than just hurting someone’s feelings.¹⁶⁸ Women also experience higher levels of public consequences due to problematic gender constraints, often heightening their humiliation.¹⁶⁹ Therefore, reforming “revenge porn” laws at the state and federal levels is essential to protect victims, especially women and children who are already suffering the consequences of ineffective legal protection. This harm is preventable. Reformative action can minimize sexual violence against women, protect children, and even save the lives of victims.

There is evidence that female “revenge porn” victims experience similar adverse health consequences to rape or child pornography victims. These studies illustrate that nonconsensual pornography victims are not experiencing mere emotional harm but rather life-long trauma that may start as emotional harm but develop into physical damage, such as interference with daily life. For instance, these emotions may physically manifest in many

¹⁶² *Id.* at 99 (citing Kamal & Newman, *Revenge Pornography: Mental Health Implications and Related Legislation*, 44 J. AM. ACAD. PSYCHIATRY L. 359 (2016)).

¹⁶³ *Id.* at 98.

¹⁶⁴ *Id.* at 98–99.

¹⁶⁵ *Id.* at 99 (citing Hartling & Lindner, *Healing Humiliation: From Reaction to Creative Action*, 94 J. COUNSELING & DEV. 94, 383 (2016); Leidner et al., *Affective Dimensions of Intergroup Humiliation*, 7 PLOS ONE 1 (2012)).

¹⁶⁶ *See id.* at 98–99, 107–08 (describing studies).

¹⁶⁷ Franks, *supra* note 27, at 2–3.

¹⁶⁸ *See* Murça et al., *supra* note 143, at 107–08 (describing the extensive harms of humiliation).

¹⁶⁹ *See* Franks, *supra* note 27, at 3–4 (describing the heightened public consequences for women versus men).

ways. For some victims, they begin to have issues in intimate relationships or in forming new relationships; others experience job loss and/or difficulty finding a new job.¹⁷⁰ In a 2009 Microsoft study, they found that “more than 80% of employers rely on candidates’ online reputations as an employment screen[.]”¹⁷¹ thus illustrating the intensity of damage that “revenge porn” victims suffer. Even if they do get hired, some victims are afraid to leave the house after experiencing harsh public backlash.¹⁷² Many, if not all, facets of one’s life are affected by image-based sexual abuse. The public nature of nonconsensual pornography dissemination creates the potential for public backlash, which, as previously discussed, disproportionately harms women due to unfair gender norms and double standards, such as the sexual suppression of women. “Gender stereotypes help explain why—women would be seen as immoral sluts for engaging in sexual activity, whereas men’s sexual activity is generally a point of pride.”¹⁷³ This type of rhetoric contributes to the sexual suppression of women, victim-blaming, and rape culture, all of which oppress women and create a society that normalizes sexual violence against women. Iowa is no exception. This messaging is prevalent on the University of Iowa campus, as evidenced in the *Solberg* case, where one of the perpetrators did not seem to understand why he and another fraternity member “were in such trouble over sharing a picture when other members of (the chapter) had done the same things in the past.”¹⁷⁴ These remarks show blatant disregard for a woman’s bodily autonomy and right to privacy. Iowa can no longer idly stand by while women and children suffer as the primary “revenge porn” victims.

Additionally, these victims become vulnerable to new forms of violence, such as stalking and harassment. The gaps in state and federal “revenge porn” laws not only create financial incentives to commit more sexual crimes, as argued above, but these legal shortcomings also make victims targets for future sexual violence. This creates a cycle of sexual violence that places disparate effects on women, resulting in oppression and constant barriers that women must overcome. Without legal intervention, this cycle continues to generate inequitable outcomes by perpetuating rape culture, victim-blaming, and ultimately gender inequality.

IV. CONCLUSION

Iowa’s legal system should recognize and minimize the disparities that

¹⁷⁰ Murça et al., *supra* note 143, at 98.

¹⁷¹ Danielle Keats Citron, ‘Revenge Porn’ Should Be a Crime in U.S., CNN (Jan. 16, 2014, 3:49 PM EST), <http://www.cnn.com/2013/08/29/opinion/citron-revenge-porn> [<https://perma.cc/ZN6E-EQLZ>].

¹⁷² *See id.* (discussing Jane’s experience).

¹⁷³ Citron & Franks, *supra* note 1, at 353.

¹⁷⁴ Miller, *supra* note 43.

women and minors face in seeking to recover under nonconsensual pornography statutes. Iowa can lower evidentiary barriers by (1) creating a new criminal code section specific to nonconsensual pornography dissemination and (2) regulating host sites to prevent these intimate images from circulating. Iowa needs a new criminal code section specifically for nonconsensual pornography dissemination because many perpetrators evade criminal liability when they do not satisfy the intent requirement for harassment. The intent to disseminate intimate images of another person without their affirmative consent should be criminalized when the perpetrator “knows or should have known that the person in the image has not consented to the dissemination.”¹⁷⁵ This new mens rea requirement would encompass the vast majority of perpetrators who escape liability because their motive was personal gratification rather than harm to the specific victim. Additionally, Iowa must regulate host sites by requiring age restrictions to verify user identities on pornographic websites and push for federal reform of CDA § 230. Since states are constrained by federal law, CDA § 230’s broad host site immunity must be limited to create protections for “revenge porn” victims. As it exists, CDA § 230 gives host sites federal immunity for their user-generated content, creating no legal obligation for host sites to remove “revenge porn” from their platforms. Thus, host sites are currently allowed to profit off nonconsensual pornography at the expense of its victims.

Iowa can lower societal barriers by educating attorneys, judges, and jurors on implicit bias by adding an annual CLE credit focused on implicit bias and providing juries with implicit bias jury instructions before hearing a sexual offense case. Increasing education and awareness of implicit bias related to gender and sexual crimes gives key decision-makers in the legal process the background they need to combat the inequities resulting from implicit bias. Less implicit bias influence in the justice system will result in more positive, equitable outcomes, such as encouraging reporting, increasing prosecutions of sexual crimes, and protecting the privacy of victims.

These evidentiary and societal barriers disproportionately harm women and children—the primary targets of nonconsensual pornography dissemination. By lowering these obstacles to recovery, society will experience a shift away from the rhetoric that contributes to rape culture by destigmatizing sexual crime victims and the sexual suppression of women. Thereby, this reform encourages victims to report sexual crimes and seek legal recourse, disincentivizes perpetrators from committing sexual crimes, and combats gender inequality through equitable remedies and legal proceedings.

¹⁷⁵ 720 ILL. COMP. STAT. ANN. 5/11–23.5(b)(3) (West 2025).