S T A T E O F N E W Y O R K

5949

2013-2014 Regular Sessions

I N S E N A T E

October 9, 2013

Introduced by Sens. GRIFFO, LAVALLE, MAZIARZ -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the penal law, in relation to establishing the crime of non-consensual disclosure of sexually explicit images

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The penal law is amended by adding a new section 250.70 to read as follows:

S 250.70 NON-CONSENSUAL DISCLOSURE OF SEXUALLY EXPLICIT IMAGES.

A PERSON IS GUILTY OF NON-CONSENSUAL DISCLOSURE OF SEXUALLY EXPLICIT IMAGES WHEN HE OR SHE INTENTIONALLY AND KNOWINGLY DISCLOSES A PHOTOGRAPH, FILM, VIDEOTAPE, RECORDING, OR ANY OTHER REPRODUCTION OF THE IMAGE OF ANOTHER PERSON WHOSE INTIMATE PARTS ARE EXPOSED OR WHO IS ENGAGED IN AN ACT OF SEXUAL CONTACT WITHOUT SUCH PERSON'S CONSENT, AND UNDER CIRCUMSTANCES IN WHICH THE PERSON HAS A REASONABLE EXPECTATION OF PRIVACY. A PERSON WHO HAS CONSENTED TO THE CAPTURE OR POSSESSION OF AN IMAGE WITHIN THE CONTEXT OF A PRIVATE OR CONFIDENTIAL RELATIONSHIP RETAINS A REASONABLE EXPECTATION OF PRIVACY WITH REGARD TO DISCLOSURE BEYOND THAT RELATIONSHIP.

1. FOR THE PURPOSES OF THIS SECTION:

(A) "DISCLOSE" MEANS TO SELL, MANUFACTURE, GIVE, PROVIDE, LEND, TRADE, MAIL, DELIVER, TRANSFER, PUBLISH, DISTRIBUTE, CIRCULATE, DISCLOSE, PRESENT, EXHIBIT, ADVERTISE OR OFFER.

(B) "INTIMATE PARTS" MEANS THE NAKED GENITALS, PUBIC AREA, BUTTOCKS, OR FEMALE ADULT NIPPLE OF THE PERSON.

(C) "SEXUAL CONTACT" MEANS SEXUAL INTERCOURSE, INCLUDING GENITAL-GENITAL, ORAL-GENITAL, ANAL-GENITAL, OR ORAL-ANAL, WHETHER BETWEEN PERSONS OF THE SAME OR OPPOSITE SEX.

2. THIS SECTION SHALL NOT APPLY TO:

(A) LAWFUL AND COMMON PRACTICES OF LAW ENFORCEMENT, CRIMINAL REPORTING, OR LEGAL PROCEEDINGS; OR

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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(B) SITUATIONS INVOLVING VOLUNTARY EXPOSURE IN PUBLIC OR COMMERCIAL SETTINGS.

3. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION ONE OF SECTION 80.05 OF THIS CHAPTER, THE COURT MAY IMPOSE A FINE NOT TO EXCEED THIRTY THOUSAND DOLLARS.

NON-CONSENSUAL DISCLOSURE OF SEXUALLY EXPLICIT IMAGES IS A CLASS A MISDEMEANOR.

S 2. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.