

5949--A

2013-2014 Regular Sessions

I N   S E N A T E

October 9, 2013

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Introduced by Sens. GRIFFO, LAVALLE, GOLDEN, MAZIARZ, RANZENHOFER -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- recommitted to the Committee on Codes in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

1     Section 1. The penal law is amended by adding a new section 250.70 to  
2     read as follows:  
3     S 250.70 NON-CONSENSUAL DISCLOSURE OF SEXUALLY EXPLICIT IMAGES.  
4     A PERSON IS GUILTY OF NON-CONSENSUAL DISCLOSURE OF SEXUALLY EXPLICIT  
5     IMAGES WHEN HE OR SHE INTENTIONALLY AND KNOWINGLY DISCLOSES A PHOTO-  
6     GRAPH, FILM, VIDEOTAPE, RECORDING, OR ANY OTHER REPRODUCTION OF THE  
7     IMAGE OF ANOTHER PERSON WHOSE INTIMATE PARTS ARE EXPOSED OR WHO IS  
8     ENGAGED IN AN ACT OF SEXUAL CONTACT WITHOUT SUCH PERSON'S CONSENT, WHEN  
9     A REASONABLE PERSON WOULD HAVE KNOWN THAT THE PERSON DEPICTED WOULD NOT  
10    HAVE CONSENTED TO SUCH DISCLOSURE, AND UNDER CIRCUMSTANCES IN WHICH THE  
11    PERSON HAS A REASONABLE EXPECTATION OF PRIVACY. A PERSON WHO HAS  
12    CONSENTED TO THE CAPTURE OR POSSESSION OF AN IMAGE WITHIN THE CONTEXT OF  
13    A PRIVATE OR CONFIDENTIAL RELATIONSHIP RETAINS A REASONABLE EXPECTATION  
14    OF PRIVACY WITH REGARD TO DISCLOSURE BEYOND THAT RELATIONSHIP.  
15    1. FOR THE PURPOSES OF THIS SECTION:  
16    (A) "DISCLOSE" MEANS TO SELL, MANUFACTURE, GIVE, PROVIDE, LEND, TRADE,  
17    MAIL, DELIVER, TRANSFER, PUBLISH, DISTRIBUTE, CIRCULATE, DISCLOSE, PRES-  
18    ENT, EXHIBIT, ADVERTISE OR OFFER.  
19    (B) "INTIMATE PARTS" MEANS THE NAKED GENITALS, PUBIC AREA, BUTTOCKS,  
20    OR FEMALE ADULT NIPPLE OF THE PERSON.

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

LBD11834-10-4

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

4 2. THIS SECTION SHALL NOT APPLY TO:

5 (A) LAWFUL AND COMMON PRACTICES OF LAW ENFORCEMENT, CRIMINAL REPORT-  
6 ING, OR LEGAL PROCEEDINGS, OR DISCLOSURES MADE IN THE REPORTING OF  
7 UNLAWFUL ACTIVITY; OR

8 (B) SITUATIONS INVOLVING VOLUNTARY EXPOSURE IN PUBLIC OR COMMERCIAL  
9 SETTINGS, OR DISCLOSURES MADE FOR A LEGITIMATE PUBLIC PURPOSE.

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

12 S 2. This act shall take effect on the first of November next succeed-  
13 ing the date on which it shall have become a law.