

7848

I N S E N A T E

June 13, 2014

Introduced by Sen. SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the civil rights law, in relation to the privacy rights of crime victims

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

1 Section 1. The civil rights law is amended by adding a new section
2 50-f to read as follows:
3 S 50-F. RIGHT OF PRIVACY; DISSEMINATION OF THE IMAGE OF A CRIME
4 VICTIM. 1. THE IMAGE OF A CRIME VICTIM, WITHIN THE MEANING OF SECTION
5 SIX HUNDRED FORTY-ONE OF THE EXECUTIVE LAW, SHALL BE DEEMED CONFIDENTIAL
6 TO THE EXTENT PROVIDED IN THIS SECTION. NO PERSON WHO IS A PUBLIC SERV-
7 ANT, OR WHO IS PERFORMING THE OFFICIAL DUTIES OF A PUBLIC SERVANT, WHO
8 IN THE COURSE OF HIS OR HER OFFICIAL DUTIES RECORDS A STILL OR MOTION
9 PICTURE IMAGE OF A CRIME VICTIM, SHALL INTENTIONALLY BROADCAST OR
10 PUBLISH SUCH IMAGE OF SUCH CRIME VICTIM OUTSIDE OF THE COURSE OF CONDUCT
11 OF HIS OR HER OFFICIAL DUTIES, EXCEPT THAT NOTHING HEREIN SHALL BE
12 CONSTRUED TO IMPAIR OR DIMINISH THE AUTHORITY TO USE SUCH STILL OR
13 MOTION PICTURE IMAGE FOR AN AUTHORIZED OFFICIAL PURPOSE, INCLUDING
14 AUTHORIZED TRAINING, NOR THE OBLIGATION TO DISCLOSE SUCH IMAGE PURSUANT
15 TO A COURT ORDER OR AS MAY OTHERWISE BE REQUIRED BY LAW.
16 2. FOR PURPOSES OF THIS SECTION:
17 (A) "BROADCAST" MEANS ELECTRONICALLY TRANSMITTING A VISUAL IMAGE WITH
18 THE INTENT THAT IT BE VIEWED BY A PERSON.
19 (B) "DISSEMINATE" MEANS TO GIVE, PROVIDE, LEND, DELIVER, MAIL, SEND,
20 FORWARD, TRANSFER OR TRANSMIT, ELECTRONICALLY OR OTHERWISE TO ANOTHER
21 PERSON.
22 (C) "PUBLISH" MEANS TO (I) POST, PRESENT, DISPLAY, EXHIBIT, CIRCULATE,
23 ADVERTISE OR ALLOW ACCESS, ELECTRONICALLY OR OTHERWISE, SO AS TO MAKE AN
24 IMAGE OR IMAGES AVAILABLE TO THE PUBLIC; OR (II) DISSEMINATE WITH THE
25 INTENT THAT AN IMAGE OR IMAGES BE POSTED, PRESENTED, DISPLAYED, EXHIB-
26 ITED, CIRCULATED, ADVERTISED OR MADE ACCESSIBLE, ELECTRONICALLY OR
27 OTHERWISE AND TO MAKE SUCH IMAGE OR IMAGES AVAILABLE TO THE PUBLIC.

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

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1 3. IF AN IMAGE OF A CRIME VICTIM, AS DEFINED IN SUBDIVISION ONE OF
2 THIS SECTION, IS BROADCAST OR PUBLISHED IN VIOLATION OF SUCH SUBDIVI-
3 SION, ANY PERSON INJURED BY SUCH BROADCAST OR PUBLICATION, MAY BRING AN
4 ACTION TO RECOVER ACTUAL AND/OR EXEMPLARY DAMAGES SUFFERED BY REASON OF
5 SUCH WRONGFUL BROADCAST OR PUBLICATION. IN ANY ACTION BROUGHT UNDER THIS
6 SECTION, THE COURT MAY AWARD REASONABLE ATTORNEY'S FEES TO A PREVAILING
7 PLAINTIFF.

8 4. ANY PERSON WHO, UPON APPLICATION TO A COURT HAVING JURISDICTION
9 OVER SAID ACTION, DEMONSTRATES TO THE SATISFACTION OF THE COURT THAT AN
10 AUTHORIZED, OFFICIAL PURPOSE EXISTED FOR SUCH BROADCAST OR PUBLICATION,
11 SHALL HAVE A DEFENSE TO SUCH ACTION. SUCH APPLICATION SHALL BE MADE UPON
12 NOTICE TO ALL PARTIES AS WELL AS THE CRIME VICTIM AND ANY PERSON LEGALLY
13 RESPONSIBLE FOR THE CARE OF SUCH CRIME VICTIM.

14 S 2. This act shall take effect immediately.