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2015-2016 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2015

Introduced by M. of A. BRAUNSTEIN, BRINDISI, PAULIN, SCHIMEL, McDONOUGH, DUPREY, MONTESANO, SIMOTAS, MORELLE, BARRETT, BENEDETTO, BORELLI, BLANKENBUSH, TENNEY, RAIA, BROOK-KRASNY, OTIS, FINCH, QUART, SALADINO, ORTIZ, SKOUFIS, CLARK -- Multi-Sponsored by -- M. of A. CROUCH, GALEF, MARKEY, McKEVITT, PALMESANO, RODRIGUEZ, SKARTADOS -- read once and referred to the Committee on Codes

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.

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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.