

STATE OF NEW YORK

6304--A

2021-2022 Regular Sessions

IN SENATE

April 21, 2021

Introduced by Sen. HINCHEY -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law and the civil rights law, in relation to unlawful dissemination or publication of intimate images created by digitization and of sexually explicit depictions of an individual

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 1 of section 245.15 of the penal law, as added
2 by chapter 109 of the laws of 2019, is amended and new subdivision 2-b
3 is added to read as follows:
4 1. A person is guilty of unlawful dissemination or publication of an
5 intimate image when:
6 (a) with intent to cause harm to the emotional, financial or physical
7 welfare of another person, he or she intentionally disseminates or
8 publishes a still or video, including an image created by digitization,
9 image of such other person, who is identifiable from the still or video
10 image itself or from information displayed in connection with the still
11 or video image, without such other person's consent, which depicts:
12 (i) an unclothed or exposed intimate part of such other person; or
13 (ii) such other person engaging in sexual conduct as defined in subdivi-
14 sion ten of section 130.00 of this chapter with another person; and
15 (b) such still or video image was:
16 (i) taken under circumstances when the person depicted had a reason-
17 able expectation that the image would remain private and the actor knew
18 or reasonably should have known the person depicted intended for the
19 still or video image to remain private, regardless of whether the actor
20 was present when the still or video image was taken~~[-]~~; or

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

LBD10561-03-1

1 (ii) created by digitization and the actor knew or reasonably should
2 have known the person depicted did not consent to its creation or to its
3 dissemination or publication.

4 2-b. For purposes of this section "digitization" means to realis-
5 tically depict any of the following:

6 (a) The nude body parts of another human being as the nude body parts
7 of the depicted person.

8 (b) Computer-generated nude body parts as the nude body parts of the
9 depicted person.

10 (c) The depicted person engaging in sexual conduct in which the
11 depicted person did not engage.

12 § 2. Paragraph a of subdivision 2 of section 52-c of the civil rights
13 law, as added by chapter 304 of the laws of 2020, is amended to read as
14 follows:

15 a. A depicted individual shall have a cause of action against a person
16 who, discloses, disseminates or publishes or threatens to disclose,
17 disseminate or publish sexually explicit material related to the
18 depicted individual, and the person knows or reasonably should have
19 known the depicted individual in that material did not consent to its
20 creation, disclosure, dissemination, or publication.

21 § 3. This act shall take effect on the sixtieth day after it shall
22 have become a law; provided, however, that if chapter 304 of the laws of
23 2020 shall not have taken effect on or before such date then section two
24 of this act shall take effect on the same date and in the same manner as
25 such chapter of the laws of 2020 takes effect.