

8214--A

2013-2014 Regular Sessions

I N   A S S E M B L Y

October 24, 2013

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Introduced by M. of A. BRAUNSTEIN, BRINDISI, PAULIN, SCHIMEL, McDONOUGH, DUPREY, MONTESANO, SIMOTAS, MORELLE, BARRETT, BENEDETTO, BORELLI, BLANKENBUSH, TENNEY, RAIA -- Multi-Sponsored by -- M. of A. CROUCH, GALEF, MARKEY, McKEVITT, RODRIGUEZ, SKARTADOS, WEISENBERG -- read once and referred to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Assembly Rule 3, sec. 2 -- 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.

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

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(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 DISCLOSURES MADE IN THE REPORTING OF UNLAWFUL ACTIVITY; OR

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

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.