S T A T E O F N E W Y O R K

1479

2015-2016 Regular Sessions

I N A S S E M B L Y

January 12, 2015

Introduced by M. of A. CUSICK -- read once and referred to the Committee on Governmental Operations

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:

Section 1. The civil rights law is amended by adding a new section 50-f to read as follows:

S 50-F. RIGHT OF PRIVACY; DISSEMINATION OF THE IMAGE OF A CRIME VICTIM. 1. THE IMAGE OF A CRIME VICTIM, WITHIN THE MEANING OF SECTION SIX HUNDRED FORTY-ONE OF THE EXECUTIVE LAW, SHALL BE DEEMED CONFIDENTIAL TO THE EXTENT PROVIDED IN THIS SECTION. NO PERSON WHO IS A PUBLIC SERVANT, OR WHO IS PERFORMING THE OFFICIAL DUTIES OF A PUBLIC SERVANT, WHO IN THE COURSE OF HIS OR HER OFFICIAL DUTIES RECORDS A STILL OR MOTION PICTURE IMAGE OF A CRIME VICTIM, SHALL INTENTIONALLY BROADCAST OR PUBLISH SUCH IMAGE OF SUCH CRIME VICTIM OUTSIDE OF THE COURSE OF CONDUCT OF HIS OR HER OFFICIAL DUTIES, EXCEPT THAT NOTHING HEREIN SHALL BE CONSTRUED TO IMPAIR OR DIMINISH THE AUTHORITY TO USE SUCH STILL OR MOTION PICTURE IMAGE FOR AN AUTHORIZED OFFICIAL PURPOSE, INCLUDING AUTHORIZED TRAINING, NOR THE OBLIGATION TO DISCLOSE SUCH IMAGE PURSUANT TO A COURT ORDER OR AS MAY OTHERWISE BE REQUIRED BY LAW.

2. FOR PURPOSES OF THIS SECTION:

(A) "BROADCAST" MEANS ELECTRONICALLY TRANSMITTING A VISUAL IMAGE WITH THE INTENT THAT IT BE VIEWED BY A PERSON.

(B) "DISSEMINATE" MEANS TO GIVE, PROVIDE, LEND, DELIVER, MAIL, SEND, FORWARD, TRANSFER OR TRANSMIT, ELECTRONICALLY OR OTHERWISE TO ANOTHER PERSON.

(C) "PUBLISH" MEANS TO (I) POST, PRESENT, DISPLAY, EXHIBIT, CIRCULATE, ADVERTISE OR ALLOW ACCESS, ELECTRONICALLY OR OTHERWISE, SO AS TO MAKE AN IMAGE OR IMAGES AVAILABLE TO THE PUBLIC; OR (II) DISSEMINATE WITH THE INTENT THAT AN IMAGE OR IMAGES BE POSTED, PRESENTED, DISPLAYED, EXHIB-

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

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ITED, CIRCULATED, ADVERTISED OR MADE ACCESSIBLE, ELECTRONICALLY OR OTHERWISE AND TO MAKE SUCH IMAGE OR IMAGES AVAILABLE TO THE PUBLIC.

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

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

S 2. This act shall take effect immediately.