

STATE OF NEW YORK

9112

IN SENATE

June 18, 2018

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

AN ACT to amend the civil rights law, in relation to limitations on liability for an internet service provider

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

Section 1. Paragraph a of subdivision 1, subdivisions 4 and 5 of section 52-b of the civil rights law, as added by a chapter of the laws of 2018 amending the civil rights law and other laws relating to establishing the crime of unlawful dissemination or publication of an intimate image, as proposed in legislative bills numbers S. 9019-A and A. 11188-A, is amended to read as follows:

a. Any website ~~[or internet service provider]~~ that hosts or transmits a still or video image, viewable in this state, taken under circumstances where the person depicted had a reasonable expectation of privacy, which depicts:

(i) an unclothed or exposed intimate part, as defined in section 245.15 of the penal law, of a resident of this state; or

(ii) a resident of this state engaging in sexual conduct as defined in subdivision ten of section 130.00 of the penal law with another person; and

4. This section shall not apply to the following:

a. the reporting of unlawful conduct;

b. dissemination or publication of an intimate still or video image made during lawful and common practices of law enforcement, legal proceedings or medical treatment;

c. images involving voluntary exposure in a commercial setting; ~~[or]~~

d. dissemination or publication of an intimate still or video image made for a legitimate public purpose; or

e. providers of an interactive computer service for images provided by another person. For purposes of this subdivision, "interactive computer service" shall mean: any information service, system or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that

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

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1 provides access to the internet and such systems operated or services
2 offered by libraries or educational institutions.

3 5. Any person depicted in a still or video image that depicts an
4 unclothed or exposed intimate part of such person, or such person engag-
5 ing in sexual conduct as defined in subdivision ten of section 130.00 of
6 the penal law with another person, which is disseminated or published
7 without the consent of such person and where such person had a reason-
8 able expectation of privacy, may maintain an action or special proceed-
9 ing for a court order to require any website [~~or internet service~~
10 ~~provider~~] that is subject to personal jurisdiction under subdivision one
11 of this section to permanently remove such still or video image.

12 § 2. This act shall take effect on the same date and in the same
13 manner as a chapter of the laws of 2018 amending the civil rights law
14 and other laws relating to establishing the crime of unlawful dissem-
15 ination or publication of an intimate image, as proposed in legislative
16 bills numbers S. 9019-A and A. 11188-A, takes effect.