

STATE OF NEW YORK

2078

2019-2020 Regular Sessions

IN SENATE

January 22, 2019

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

AN ACT to amend the penal law, in relation to establishing the crime of unsolicited disclosure of an intimate image

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 two new sections 245.12
2 and 245.13 to read as follows:

3 § 245.12 Unsolicited disclosure of an intimate image in the second
4 degree.

5 1. A person is guilty of unsolicited disclosure of an intimate image
6 in the second degree when, with intent to harass, annoy or alarm another
7 person he or she sends by electronic device an unsolicited intimate
8 image to such other person.

9 2. For purposes of this section, "intimate body parts" means the geni-
10 tals, pubic area or anus of any person; "intimate image" means a photo-
11 graph, film, videotape, recording or any other reproduction of an image
12 of an individual with fully or partially exposed intimate body parts or
13 engaged in sexual activity; "send by electronic device" means to send
14 using a cellular telephone or any other electronic communication device,
15 including devices capable of sending text messages or e-mails; "sexual
16 activity" means "sexual intercourse" as defined in subdivision one of
17 section 130.00 of this chapter, "oral sexual conduct" or "anal sexual
18 conduct" as defined in subdivision two of section 130.00 of this chap-
19 ter, touching of the intimate body parts of a person for the purpose of
20 gratifying sexual desire, sexual penetration with any object, or the
21 transmission or appearance of semen upon any part of the depicted indi-
22 vidual's body.

23 Unsolicited disclosure of an intimate image in the second degree is a
24 class A misdemeanor.

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

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1 § 245.13 Unsolicited disclosure of an intimate image in the first
2 degree.

3 A person is guilty of unsolicited disclosure of an intimate image in
4 the first degree when he or she commits the crime of unsolicited disclo-
5 sure of an intimate image in the second degree, as defined in section
6 245.12 of this article, and discloses such intimate image to an individ-
7 ual sixteen years of age or younger.

8 Unsolicited disclosure of an intimate image in the first degree is a
9 class E felony.

10 § 2. This act shall take effect on the first of November next succeed-
11 ing the date on which it shall have become a law.