STATE OF NEW YORK

4843

2021-2022 Regular Sessions

IN SENATE

February 16, 2021

Introduced by Sen. BIAGGI -- 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:

Section 1. The penal law is amended by adding a new section 245.12 to read as follows:

§ 245.12 Unsolicited disclosure of an intimate image.

1. A person is guilty of unsolicited disclosure of an intimate image when, with intent to harass, annoy or alarm another person and which serves no legitimate purpose, he or she sends by electronic device an unsolicited intimate image to such other person.

2. For purposes of this section: a. "intimate body parts" means the genitals, pubic area or anus of any person;

b. "intimate image" means a photograph, film, videotape, recording or any other reproduction of an image of an individual with fully or partially exposed intimate body parts or engaged in sexual activity;

c. "send by electronic device" means to send using a cellular telephone or any other electronic communication device, including devices capable of sending text messages or e-mails;

d. "sexual activity" means "sexual intercourse" as defined in subdivision one of section 130.00 of this chapter, "oral sexual conduct" or "anal sexual conduct" as defined in subdivision two of section 130.00 of this chapter, touching of the intimate body parts of a person for the purpose of gratifying sexual desire, sexual penetration with any object, or the transmission or appearance of semen upon any part of the depicted individual's body.

Unsolicited disclosure of an intimate image is a class B misdemeanor.

§ 2. The penal law is amended by adding a new section 60.38 to read as follows:

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

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§ 60.38 Authorized disposition; unsolicited disclosure of an intimate image.

When a person is convicted of an offense defined in section 245.12 of this chapter, or of an attempt to commit such offense, the court shall, where appropriate, include as a condition of such sentence the defendant's successful completion of a sexual harassment prevention training program approved by the division of human rights.

§ 3. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.