

# STATE OF NEW YORK

6945

2021-2022 Regular Sessions

## IN SENATE

May 20, 2021

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

AN ACT to amend the penal law and the criminal procedure law, in relation to creating the crime of unlawful dissemination or publication of discovery material

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 215.09 to  
2 read as follows:

3 § 215.09 Unlawful dissemination or publication of discovery material.

4 1. A person is guilty of unlawful dissemination or publication of  
5 discovery material, when he or she:

6 a. Intentionally disseminates or publishes material defined under  
7 section 245.20 of the criminal procedure law with the intent of intim-  
8 idating or harassing another person; or

9 b. Intentionally disseminates or publishes material defined under  
10 section 245.20 of the criminal procedure law to another person and he or  
11 she knew or reasonably should have known that the person intended to use  
12 the discovery material to intimidate or harass another person.

13 2. A person who is the defense counsel to a defendant in a legal  
14 proceeding shall not be guilty of an offense under paragraph b of subdivi-  
15 sion one of this section, when communicating directly with the defend-  
16 ant in accordance with article two hundred forty-five of the criminal  
17 procedure law.

18 3. Under this section, "disseminates" and "publishes" shall have the  
19 same meanings as under section 250.40 of this part.

20 Unlawful dissemination or publication of discovery material is a class  
21 E felony.

22 § 2. Paragraphs (s) and (t) of subdivision 4 of section 510.10 of the  
23 criminal procedure law, as added by section 2 of part UU of chapter 56

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

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1 of the laws of 2020, are amended and a new paragraph (u) is added to  
2 read as follows:

3 (s) a felony, where the defendant qualifies for sentencing on such  
4 charge as a persistent felony offender pursuant to section 70.10 of the  
5 penal law; ~~[or]~~

6 (t) any felony or class A misdemeanor involving harm to an identifi-  
7 able person or property, where such charge arose from conduct occurring  
8 while the defendant was released on his or her own recognizance or  
9 released under conditions for a separate felony or class A misdemeanor  
10 involving harm to an identifiable person or property, provided, however,  
11 that the prosecutor must show reasonable cause to believe that the  
12 defendant committed the instant crime and any underlying crime. For the  
13 purposes of this ~~[subparagraph]~~ paragraph, any of the underlying crimes  
14 need not be a qualifying offense as defined in this subdivision~~[+]~~; or

15 (u) unlawful dissemination or publication of discovery material as  
16 defined in section 215.09 of the penal law.

17 § 3. Subparagraphs (xix) and (xx) of paragraph (b) of subdivision 1 of  
18 section 530.20 of the criminal procedure law, as amended by section 3 of  
19 part UU of chapter 56 of the laws of 2020, are amended and a new subpar-  
20 agraph (xxi) is added to read as follows:

21 (xix) a felony, where the defendant qualifies for sentencing on such  
22 charge as a persistent felony offender pursuant to section 70.10 of the  
23 penal law; ~~[or]~~

24 (xx) any felony or class A misdemeanor involving harm to an identifi-  
25 able person or property, where such charge arose from conduct occurring  
26 while the defendant was released on his or her own recognizance or  
27 released under conditions for a separate felony or class A misdemeanor  
28 involving harm to an identifiable person or property, provided, however,  
29 that the prosecutor must show reasonable cause to believe that the  
30 defendant committed the instant crime and any underlying crime. For the  
31 purposes of this subparagraph, any of the underlying crimes need not be  
32 a qualifying offense as defined in this subdivision~~[+]~~; or

33 (xxi) unlawful dissemination or publication of discovery material as  
34 defined in section 215.09 of the penal law.

35 § 4. Paragraphs (s) and (t) of subdivision 4 of section 530.40 of the  
36 criminal procedure law, as added by section 4 of part UU of chapter 56  
37 of the laws of 2020, are amended and a new paragraph (u) is added to  
38 read as follows:

39 (s) a felony, where the defendant qualifies for sentencing on such  
40 charge as a persistent felony offender pursuant to section 70.10 of the  
41 penal law; ~~[or]~~

42 (t) any felony or class A misdemeanor involving harm to an identifi-  
43 able person or property, where such charge arose from conduct occurring  
44 while the defendant was released on his or her own recognizance or  
45 released under conditions for a separate felony or class A misdemeanor  
46 involving harm to an identifiable person or property, provided, however,  
47 that the prosecutor must show reasonable cause to believe that the  
48 defendant committed the instant crime and any underlying crime. For the  
49 purposes of this ~~[subparagraph]~~ paragraph, any of the underlying crimes  
50 need not be a qualifying offense as defined in this subdivision~~[+]~~; or

51 (u) unlawful dissemination or publication of discovery material as  
52 defined in section 215.09 of the penal law.

53 § 5. This act shall take effect immediately.