

STATE OF NEW YORK

1042

2023-2024 Regular Sessions

IN SENATE

January 9, 2023

Introduced by Sen. HINCHEY -- 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 civil rights law, in relation to unlawful dissemination or publication of intimate images created by digitization and of sexually explicit depictions of an individual; and to repeal certain provisions of the penal law relating thereto

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

1 Section 1. Subdivisions 1 and 2 of section 245.15 of the penal law, as
2 added by chapter 109 of the laws of 2019, are amended to read as
3 follows:

4 1. A person is guilty of unlawful dissemination or publication of an
5 intimate image when:

6 (a) with intent to cause harm to the emotional, financial or physical
7 welfare of another person, [~~he or she~~] they intentionally [~~disseminates~~]
8 disseminate or [~~publishes~~] publish a still or video image [~~of~~] depicting
9 such other person [~~, who is identifiable~~] with one or more intimate parts
10 exposed or engaging in sexual conduct with another person, including an
11 image created or altered by digitization, where such person may reason-
12 ably be identified from the still or video image itself or from informa-
13 tion displayed in connection with the still or video image [~~, without~~
14 ~~such other person's consent, which depicts:~~

15 ~~(i) an unclothed or exposed intimate part of such other person; or~~
16 ~~(ii) such other person engaging in sexual conduct as defined in subdivi-~~
17 ~~vision ten of section 130.00 of this chapter with another person]; and~~

18 (b) [~~such still or video image was taken under circumstances~~] the
19 actor knew or reasonably should have known that the person depicted did
20 not consent to such dissemination or publication, including the dissem-
21 ination or publication of an image taken with the consent of the person
22 depicted when [~~the~~] such person [~~depicted~~] had a reasonable expectation
23 that the image would remain private [~~and the actor knew or reasonably~~

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

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1 ~~should have known the person depicted intended for the still or video~~
2 ~~image to remain private~~], regardless of whether the actor was present
3 when [~~the still or video~~] such image was taken.

4 2. For purposes of this section the following terms shall have the
5 following meanings:

6 (a) "intimate part" means the naked genitals, pubic area, anus or
7 female nipple of the person[-];

8 (b) "disseminate" and "publish" shall have the same meaning as
9 defined in section 250.40 of this title;

10 (c) "sexual conduct" shall have the same meaning as defined in subdi-
11 vision ten of section 130.00 of this chapter; and

12 (d) "digitization" shall mean to alter an image in a realistic manner
13 utilizing an image or images of a person, other than the person
14 depicted, or computer generated images.

15 § 1-a. Subdivision 2-a of section 245.15 of the penal law is REPEALED.

16 § 2. Paragraph a of subdivision 2 of section 52-c of the civil rights
17 law, as added by chapter 304 of the laws of 2020, is amended to read as
18 follows:

19 a. A depicted individual shall have a cause of action against a person
20 who, discloses, disseminates or publishes or with intent to cause harm
21 to the emotional, financial or physical welfare of another person, he or
22 she threatens to disclose, disseminate or publish sexually explicit
23 material related to the depicted individual, and the person knows or
24 reasonably should have known the depicted individual in that material
25 did not consent to its creation, disclosure, dissemination, or publica-
26 tion.

27 § 3. This act shall take effect on the sixtieth day after it shall
28 have become a law.