STATE OF NEW YORK

1822--A

2025-2026 Regular Sessions

IN SENATE

January 14, 2025

Introduced by Sen. FERNANDEZ -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law and the civil rights law, in relation to prohibiting speech-based defenses to actions brought against an individual for the unlawful dissemination or publication of an intimate image

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

Section 1. Section 245.15 of the penal law is amended by adding a new subdivision 5 to read as follows:

5. It shall not be a defense to any criminal action brought against an individual pursuant to this section that such dissemination or publication of an intimate image is protected by a right to free speech, where the prosecution has established beyond a reasonable doubt that, at the time of dissemination, the defendant knew or should have known that the subject of the image had a reasonable expectation of privacy and did not consent to the release of such image.

§ 2. Section 52-b of the civil rights law is amended by adding a new subdivision 6-a to read as follows:

6-a. It shall not be a defense to any civil action brought against an individual pursuant to this section that such dissemination or publication of an intimate image is protected by a right to free speech, where the plaintiff has established by a preponderance of the evidence that, at the time of dissemination, the defendant knew or should have known that the subject of the image had a reasonable expectation of privacy and did not consent to the release of such image.

§ 3. This act shall take effect immediately.

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

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