

STATE OF NEW YORK

6278

2025-2026 Regular Sessions

IN SENATE

March 7, 2025

Introduced by Sen. SCARCELLA-SPANTON -- 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 aggravated harassment by means of electronic or digital communication; and to amend the civil rights law, in relation to providing for a private right of action for the unlawful dissemination or publication of deep fakes

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 240.80 to
2 read as follows:

3 § 240.80 Aggravated harassment by means of electronic or digital commu-
4 nication.

5 1. A person is guilty of aggravated harassment by means of electronic
6 or digital communication when, with the intent to harass, annoy, threaten
7 or alarm another person, such person produces, distributes, publishes
8 or broadcasts material that contains a picture, photograph or image of a
9 person or persons or a deep fake into which the image of another person
10 or persons is superimposed as a deep fake.

11 2. For purposes of this section, "deep fake" means a digitized image
12 that is altered to incorporate a person's face or their identifiable
13 body part onto such image, and such image is any printed material,
14 advertisement, movie, video, communication or computer image that
15 depicts a pornographic or lewd sex act as defined pursuant to section
16 245.00 or 130.00 of this part, or graphic violence, that is published
17 without the explicit written permission of the individual or individuals
18 depicted, and for no other legitimate purpose other than to harass,
19 annoy, threaten or alarm another person.

20 Aggravated harassment by means of electronic or digital communication
21 shall be a class A misdemeanor.

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

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1 § 2. Section 52-b of the civil rights law, as added by chapter 109 of
2 the laws of 2019, the opening paragraph of subdivision 1, subdivisions 4
3 and 5 as amended and subdivision 11 as added by section 3 of subpart A
4 of part MM of chapter 58 of the laws of 2024, is amended to read as
5 follows:

6 § 52-b. Private right of action for unlawful dissemination or publica-
7 tion of an intimate image or deep fake. 1. Any person depicted in a
8 still or video image, including an image created or altered by digitiza-
9 tion, regardless of whether or not the original still or video image was
10 consensually obtained, shall have a cause of action against an individ-
11 ual who, for the purpose of harassing, annoying or alarming such person,
12 disseminated or published, or threatened to disseminate or publish, such
13 still or video image, where such image or deep fake:

14 a. was a deep fake or was taken when such person had a reasonable
15 expectation that [~~the~~] their image would remain private; and

16 b. depicts (i) an unclothed or exposed intimate part of such person;
17 or (ii) such person engaging in sexual conduct, as defined in subdivi-
18 sion ten of section 130.00 of the penal law, with another person; and

19 c. was disseminated or published, or threatened to be disseminated or
20 published, without the consent of such person.

21 2. In any action commenced pursuant to subdivision one of this
22 section, the finder of fact, in its discretion, may award injunctive
23 relief, punitive damages, compensatory damages and reasonable court
24 costs and attorney's fees.

25 3. This section shall not apply to the following:

26 a. the reporting of unlawful conduct;

27 b. dissemination or publication of an intimate still [~~or~~], video image
28 or deep fake made during lawful and common practices of law enforcement,
29 legal proceedings or medical treatment;

30 c. images involving voluntary exposure in a public or commercial
31 setting; or

32 d. dissemination or publication of an intimate still [~~or~~], video image
33 or deep fake made for a legitimate public purpose.

34 4. Any person depicted in a still [~~or~~], video image or deep fake,
35 including an image created or altered by digitization, that depicts an
36 unclothed or exposed intimate part of such person, or such person engag-
37 ing in sexual conduct as defined in subdivision ten of section 130.00 of
38 the penal law with another person, which is disseminated or published
39 without the consent of such person and where such person had a reason-
40 able expectation that the image would remain private, may maintain an
41 action or special proceeding for a court order to require any website
42 that is subject to personal jurisdiction under subdivision five of this
43 section to permanently remove such still or video image or deep fake;
44 any such court order granted pursuant to this subdivision may direct
45 removal only as to images that are reasonably within such website's
46 control.

47 5. a. Any website that hosts or transmits a still [~~or~~], video image or
48 deep fake, including an image created or altered by digitization, view-
49 able in this state, taken or produced under circumstances where the
50 person depicted had a reasonable expectation that the image would remain
51 private, which depicts:

52 (i) an unclothed or exposed intimate part, as defined in section
53 245.15 of the penal law, of a resident of this state; or

54 (ii) a resident of this state engaging in sexual conduct as defined in
55 subdivision ten of section 130.00 of the penal law with another person;
56 and

1 b. Such still [~~ex~~], video image or deep fake is hosted or transmitted
2 without the consent of such resident of this state, shall be subject to
3 personal jurisdiction in a civil action in this state to the maximum
4 extent permitted under the United States constitution and federal law.

5 6. A cause of action or special proceeding under this section shall be
6 commenced the later of either:

7 a. three years after the dissemination or publication of an image; or

8 b. one year from the date a person discovers, or reasonably should
9 have discovered, the dissemination or publication of such image.

10 6-a. For purposes of this section, the following terms shall have the
11 following meanings:

12 a. "Individual" means a person, corporation, business entity, firm,
13 association, committee or organization conducting business within the
14 state of New York.

15 b. "Deep fake" means a digitized image that is altered to incorporate
16 a person's face or their identifiable body part onto such image, and
17 such image is any printed material, advertisement, movie, video, commu-
18 nication or computer image that depicts a pornographic or lewd sex act
19 as defined pursuant to section 245.00 or 130.00 of the penal law, or
20 graphic violence, that is published without the explicit written permis-
21 sion of the individual or individuals depicted, and for no other legiti-
22 mate purpose other than to harass, annoy, threaten or alarm another
23 person.

24 7. Nothing [~~herein~~] in this section shall be read to require a prior
25 criminal complaint, prosecution or conviction to establish the elements
26 of the cause of action provided for by this section.

27 8. The provisions of this section are in addition to, but shall not
28 supersede, any other rights or remedies available in law or equity.

29 9. If any provision of this section or its application to any person
30 or circumstance is held invalid, the invalidity shall not affect other
31 provisions or applications of this section which can be given effect
32 without the invalid provision or application, and to this end the
33 provisions of this section are severable.

34 10. Nothing in this section shall be construed to limit, or to
35 enlarge, the protections that 47 U.S.C § 230 confers on an interactive
36 computer service for content provided by another information content
37 provider, as such terms are defined in 47 U.S.C. § 230.

38 11. For purposes of this section, "digitization" means the use of
39 software, machine learning, artificial intelligence, or any other compu-
40 ter-generated or technological means, including adapting, modifying,
41 manipulating, or altering a realistic depiction.

42 § 3. Section 52-c of the civil rights law, as added by chapter 304 of
43 the laws of 2020, and paragraphs b and e of subdivision 1 as amended by
44 section 4 of subpart A of part MM of chapter 58 of the laws of 2024, is
45 amended to read as follows:

46 § 52-c. Private right of action for unlawful dissemination or publica-
47 tion of a sexually explicit depiction or deep fake of an individual. 1.
48 For the purposes of this section:

49 a. "depicted individual" means an individual who appears, as a result
50 of digitization, to be giving a performance they did not actually
51 perform or to be performing in a performance that was actually performed
52 by the depicted individual but was subsequently altered to be in
53 violation of this section.

54 b. "digitization" means to realistically depict the nude body parts of
55 another human being as the nude body parts of the depicted individual,
56 computer-generated nude body parts as the nude body parts of the

1 depicted individual or the depicted individual engaging in sexual
2 conduct, as defined in subdivision ten of section 130.00 of the penal
3 law, in which the depicted individual did not engage. "Digitization" may
4 also mean the use of software, machine learning, artificial intelli-
5 gence, or any other computer-generated or technological means, including
6 adapting, modifying, manipulating, or altering a realistic depiction.

7 c. "individual" means a natural person.

8 d. "person" means a human being or legal entity.

9 e. "sexually explicit material" means any portion of an audio visual
10 work or deep fake that shows the depicted individual:

11 i. performing in the nude, meaning with an unclothed or exposed inti-
12 mate part, as defined in section 245.15 of the penal law;

13 ii. appearing to engage in, or being subjected to, sexual conduct, as
14 defined in subdivision ten of section 130.00 of the penal law; or

15 iii. posed in a manner intended to elicit sexual arousal or gratifica-
16 tion and where a person would have a reasonable expectation of privacy.

17 f. "deep fake" means a digitized image that is altered to incorporate
18 an individual's face or their identifiable body part onto such image,
19 and such image is any printed material, advertisement, movie, video,
20 communication or computer image that depicts a pornographic or lewd sex
21 act as defined pursuant to section 245.00 or 130.00 of the penal law, or
22 graphic violence, that is published without the explicit written permis-
23 sion of the individual or individuals depicted, and for no other legiti-
24 mate purpose other than to harass, annoy, threaten or alarm another
25 person.

26 2. a. A depicted individual shall have a cause of action against a
27 person who, discloses, disseminates, produces or publishes sexually
28 explicit material or a deep fake related to the depicted individual, and
29 the person knows or reasonably should have known the depicted individual
30 in that material did not consent to its creation, disclosure, dissem-
31 ination, production or publication.

32 b. It shall not be a defense to an action under this section that
33 there is a disclaimer in the sexually explicit material that communi-
34 cates that the inclusion of the depicted individual in the sexually
35 explicit material was unauthorized or that the depicted individual did
36 not participate in the creation or development of the material.

37 3. a. A depicted individual may only consent to the creation, disclo-
38 sure, dissemination, production, or publication of sexually explicit
39 material or a deep fake by knowingly and voluntarily signing an agree-
40 ment written in plain language that includes a general description of
41 the sexually explicit material and the audiovisual work in which it will
42 be incorporated.

43 b. A depicted individual may rescind consent by delivering written
44 notice within three business days from the date consent was given to the
45 person in whose favor consent was made, unless one of the following
46 requirements is satisfied:

47 i. the depicted individual is given at least three business days to
48 review the terms of the agreement before signing it; or

49 ii. if the depicted individual is represented, the attorney, talent
50 agent, or personal manager authorized to represent the depicted individ-
51 ual provides additional written approval of the signed agreement.

52 4. a. A person is not liable under this section if:

53 i. the person discloses, disseminates or publishes the sexually
54 explicit material in the course of reporting unlawful activity, exercis-
55 ing the person's law enforcement duties, or hearings, trials or other
56 legal proceedings; or

1 ii. the sexually explicit material is a matter of legitimate public
2 concern, a work of political or newsworthy value or similar work, or
3 commentary, criticism or disclosure that is otherwise protected by the
4 constitution of this state or the United States; provided that sexually
5 explicit material shall not be considered of newsworthy value solely
6 because the depicted individual is a public figure.

7 5. In any action commenced pursuant to this section, the finder of
8 fact, in its discretion, may award injunctive relief, punitive damages,
9 compensatory damages, and reasonable court costs and attorney's fees.

10 6. A cause of action or special proceeding under this section shall be
11 commenced the later of either:

12 a. three years after the dissemination or publication of sexually
13 explicit material; or

14 b. one year from the date a person discovers, or reasonably should
15 have discovered, the dissemination or publication of such sexually
16 explicit material.

17 7. Nothing in this section shall be read to require a prior criminal
18 complaint, prosecution or conviction to establish the elements of the
19 cause of action provided for in this section.

20 8. The provisions of this section including the remedies are in addi-
21 tion to, and shall not supersede, any other rights or remedies available
22 in law or equity.

23 9. If any provision of this section or its application to any person
24 or circumstance is held invalid, the invalidity shall not affect other
25 provisions or applications of this section which can be given effect
26 without the invalid provision or application, and to this end the
27 provisions of this section are severable.

28 10. Nothing in this section shall be construed to limit, or to
29 enlarge, the protections that 47 U.S.C. § 230 confers on an interactive
30 computer service for content provided by another information content
31 provider, as such terms are defined in 47 U.S.C. § 230.

32 § 4. This act shall take effect immediately.