

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 399
Senate Judiciary Committee Substitute Adopted 5/31/17

Short Title: Stop Images Taken W/O Consent From Dissemin. (Public)

Sponsors:

Referred to:

March 20, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO PROTECT PERSONS WHO ARE PHOTOGRAPHED, VIDEOTAPED, OR
3 RECORDED WITHOUT THEIR CONSENT FROM HAVING HIS OR HER IMAGE
4 DISCLOSED.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 14-190.5A reads as rewritten:

7 **"§ 14-190.5A. Disclosure of private images.**

8 (a) Definitions. – The following definitions apply in this section:

9 (1) Disclose. – Transfer, publish, distribute, or reproduce.

10 (2) Image. – A photograph, film, videotape, recording, ~~digital, or other~~
11 reproduction-live transmission, digital or computer-generated visual
12 depiction, or any other reproduction that is made by electronic, mechanical,
13 or other means.

14 (3) Intimate parts. – Any of the following naked human parts: (i) male or female
15 genitals, (ii) male or female pubic area, (iii) male or female anus, or (iv) the
16 nipple of a female over the age of 12.

17 (4) ~~Personal relationship. – As defined in G.S. 50B-1(b).~~

18 (5) ~~Reasonable expectation of privacy. – When a depicted person has consented~~
19 ~~to the disclosure of an image within the context of a personal relationship~~
20 ~~and the depicted person reasonably believes that the disclosure will not go~~
21 ~~beyond that relationship.~~

22 (6) Sexual conduct. – Includes any of the following:

23 a. Vaginal, anal, or oral intercourse, whether actual or simulated,
24 normal or perverted.

25 b. Masturbation, excretory functions, or lewd exhibition of uncovered
26 genitals.

27 c. An act or condition that depicts torture, physical restraint by being
28 fettered or bound, or flagellation of or by a nude person or a person
29 clad in undergarments or in revealing or bizarre costume.

30 (b) Offense. – A person is guilty of disclosure of private images if all of the following
31 apply:

32 (1) The person knowingly discloses an image of another person with the intent
33 to do either of the following:

34 a. Coerce, harass, intimidate, demean, humiliate, or cause financial loss
35 to the depicted person.



- 1 b. Cause others to coerce, harass, intimidate, demean, humiliate, or
2 cause financial loss to the depicted person.
- 3 (2) The depicted person is identifiable from the disclosed image itself or
4 information offered in connection with the image.
- 5 (3) The depicted person's intimate parts are exposed or the depicted person is
6 engaged in sexual conduct in the disclosed image.
- 7 (4) The person discloses the image without the affirmative consent of the
8 depicted person.
- 9 (5) The person ~~discloses~~obtained the image without consent of the depicted
10 person or under circumstances such that the person knew or should have
11 known that the depicted person had a reasonable expectation of
12 ~~privacy.~~expected the images to remain private.
- 13 (c) Penalty. – A violation of this section shall be punishable as follows:
- 14 (1) For an offense by a person who is 18 years of age or older at the time of the
15 offense, the violation is a Class H felony.
- 16 (2) For a first offense by a person who is under 18 years of age at the time of the
17 offense, the violation is a Class 1 misdemeanor.
- 18 (3) For a second or subsequent offense by a person who is under the age of 18 at
19 the time of the offense, the violation is a Class H felony.
- 20 (d) Exceptions. – This section does not apply to any of the following:
- 21 (1) Images involving voluntary exposure in public or commercial settings.
- 22 (2) Disclosures made in the public interest, including, but not limited to, the
23 reporting of unlawful conduct or the lawful and common practices of law
24 enforcement, criminal reporting, legal proceedings, medical treatment, or
25 scientific or educational activities.
- 26 (3) Providers of an interactive computer service, as defined in 47 U.S.C. §
27 230(f), for images provided by another person.

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29 **SECTION 2.** The Joint Legislative Oversight Committee on Justice and Public
30 Safety shall study the issue of improper disclosure of an image of a person superimposed onto
31 another image of exposed intimate parts or depicting sexual conduct. The study shall include
32 whether any existing crimes or civil actions currently apply and whether G.S. 14-190.5A, as
33 enacted, should be amended to include superimposed images. The Joint Legislative Oversight
34 Committee on Justice and Public Safety shall report its findings and any recommendations to
35 the General Assembly by April 1, 2018.

36 **SECTION 3.** Except as otherwise provided, this act becomes effective December
37 1, 2017, and applies to offenses committed on or after that date.