

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE PRINCIPAL CLERK

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HOUSE DRH20251-LR-128A (03/31)

Short Title: Privacy/Protection From Revenge Postings. (Public)

Sponsors: Representatives Bryan and Bishop (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO PROTECT THE PUBLIC FROM REVENGE POSTING ONLINE BY
3 MAKING IT A FELONY TO DISCLOSE CERTAIN IMAGES IN WHICH THERE IS A
4 REASONABLE EXPECTATION OF PRIVACY.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Article 52 of Chapter 14 of the General Statutes is amended by
7 adding a new section to read:

8 "**§ 14-401.26. Disclosure of private images.**

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

10 (1) Disclose. – Transferring, publishing, distributing, or reproducing.

11 (2) Image. – A photograph, film, videotape, recording, digital, or other
12 reproduction.

13 (3) Intimate parts. – The naked genitals, pubic area, anus, or female adult nipple
14 of the person.

15 (4) Reasonable expectation of privacy. – When a person has consented to the
16 disclosure of an image within the context of a confidential relationship and
17 the person reasonably believes that the disclosures will not go beyond that
18 relationship.

19 (5) Sexual act. – Includes, but is not limited to, masturbation, genital, anal, or
20 oral sex.

21 (b) A person is guilty of a Class H felony if the person knowingly discloses an image of
22 another identifiable person whose intimate parts are exposed or who is engaged in a sexual act,
23 when the person knows or should have known that the depicted person has not consented to
24 such disclosure and under circumstances such that the person knew or should have known that
25 the depicted person had a reasonable expectation of privacy.

26 (c) Exceptions. – This section does not apply to any of the following:

27 (1) Images involving voluntary exposure in public or commercial settings.

28 (2) Disclosures made in the public interest, including, but not limited to, the
29 reporting of unlawful conduct or the lawful and common practices of law
30 enforcement, criminal reporting, legal proceedings, or medical treatment.

31 (d) In addition to any other remedies at law or in equity, any person whose image is
32 disclosed, or used, as described in subsection (b) of this section, has a civil cause of action
33 against any person who discloses or uses the image and is entitled to recover from the other
34 person:



- 1 (1) Actual damages, but not less than liquidated damages, to be computed at the
- 2 rate of one thousand dollars (\$1,000) per day for each day of the violation or
- 3 in the amount of ten thousand dollars (\$10,000), whichever is higher;
- 4 (2) Punitive damages; and
- 5 (3) A reasonable attorneys' fee and other litigation costs reasonably incurred.
- 6 The civil cause of action may be brought no more than four years after the last disclosure as
- 7 described in this section."

8 **SECTION 2.** This act becomes effective December 1, 2015.