

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 792
PROPOSED COMMITTEE SUBSTITUTE H792-PCS40421-TH-14

Short Title: Privacy/Protection From Revenge Postings.

(Public)

Sponsors:

Referred to:

April 15, 2015

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

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Article 26 of Chapter 14 of the General Statutes is amended by
7 adding a new section to read:

8 "§ 14-190.5A. Disclosure of private images.

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

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

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

13 (3) Intimate parts. – The naked genitals, pubic area, anus, or the nipple of a
14 female over the age of 12.

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

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

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

21 a. Vaginal, anal, or oral intercourse, whether actual or simulated,
22 normal or perverted.

23 b. Masturbation, excretory functions, or lewd exhibition of uncovered
24 genitals.

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

28 (b) A person is guilty of a Class H felony if, with the intent to coerce, harass,
29 intimidate, demean, humiliate, or cause financial loss to the depicted person, or with the intent
30 to cause others to coerce, harass, intimidate, demean, humiliate, or cause financial loss to the
31 depicted person, the person knowingly discloses an image of another person who is identifiable
32 from the image itself or information offered in connection with the image, and whose intimate
33 parts are exposed or who is engaged in sexual conduct, when the person knows or should have
34 known that the depicted person has not consented to such disclosure and under circumstances
35 such that the person knew or should have known that the depicted person had a reasonable



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1 expectation of privacy. In addition, the court may order the destruction of any image made in
2 violation of this section.

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

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

5 (2) Disclosures made in the public interest, including, but not limited to, the
6 reporting of unlawful conduct or the lawful and common practices of law
7 enforcement, criminal reporting, legal proceedings, medical treatment, or
8 scientific or educational activities.

9 (3) Providers of an interactive computer service, as defined in 47 U.S.C. §
10 230(f), for images provided by another person.

11 (d) In addition to any other remedies at law or in equity, including an order by the court
12 to destroy any image disclosed in violation of this section, any person whose image is
13 disclosed, or used, as described in subsection (b) of this section, has a civil cause of action
14 against any person who discloses or uses the image and is entitled to recover from the other
15 person any of the following:

16 (1) Actual damages, but not less than liquidated damages, to be computed at the
17 rate of one thousand dollars (\$1,000) per day for each day of the violation or
18 in the amount of ten thousand dollars (\$10,000), whichever is higher.

19 (2) Punitive damages.

20 (3) A reasonable attorneys' fee and other litigation costs reasonably incurred.

21 The civil cause of action may be brought no more than four years after the last disclosure as
22 described in this section."

23 **SECTION 2.** This act becomes effective December 1, 2015, and applies to
24 offenses committed on or after that date and to actions initiated on or after that date.