

GENERAL ASSEMBLY OF NORTH CAROLINA
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SENATE BILL DRS45178-MS-90 (03/07)

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

Sponsors: Senators Bishop, Britt, and Bryant (Primary Sponsors).

Referred to:

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-computer, or computer-generated image or picture, or other~~
12 ~~reproduction that is made or produced by electronic, mechanical, or other~~
13 ~~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 to~~
19 ~~the disclosure of an image within the context of a personal relationship and the~~
20 ~~depicted person reasonably believes that the disclosure will not go beyond that~~
21 ~~relationship.~~

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

23 a. Vaginal, anal, or oral intercourse, whether actual or simulated, normal
24 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 clad
29 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 to
33 do either of the following:

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



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- 1 b. Cause others to coerce, harass, intimidate, demean, humiliate, or cause
- 2 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 depicted
- 8 person.
- 9 (5) The person discloses-obtained the image without consent of the depicted person
- 10 or under circumstances such that the person knew or should have known that
- 11 the depicted person had a reasonable expectation of privacy-expected the
- 12 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. § 230(f),
- 27 for images provided by another person.
- 28"
- 29 **SECTION 2.** This act becomes effective December 1, 2017, and applies to offenses
- 30 committed on or after that date.