

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred House Bill No. 105 entitled

3 “An act relating to disclosure of sexually explicit images without consent”

4 respectfully reports that it has considered the same and recommends that the

5 bill be amended by striking out all after the enacting clause and inserting in

6 lieu thereof the following:

7 Sec. 1. 13 V.S.A. § 2605 is amended to read:

8 § 2605. VOYEURISM

9 (a) As used in this section:

10 * * *

11 (6) “Sexual conduct” shall have the same meaning as in section 2821 of
12 this title.

13 (7) “Surveillance” means secret observation of the activities of another
14 person for the purpose of spying upon and invading the privacy of the person.

15 ~~(7)~~(8) “View” means the intentional looking upon another person for
16 more than a brief period of time, in other than a casual or cursory manner, with
17 the unaided eye or a device designed or intended to improve visual acuity.

18 * * *

19 (e) No person shall intentionally photograph, film, or record in any format
20 a person without that person’s knowledge and consent while that person is in a

1 place where a person has a reasonable expectation of privacy and that person is
2 engaged in a sexual act as defined in section 3251 of this title conduct.

3 * * *

4 Sec. 2. 13 V.S.A. § 2606 is added to read:

5 § 2606. DISCLOSURE OF SEXUALLY EXPLICIT IMAGES WITHOUT
6 CONSENT

7 (a) As used in this section:

8 (1) “Disclose” includes transfer, publish, distribute, exhibit, or
9 reproduce.

10 (2) “Intimate areas” shall have the same meaning as in section 2605 of
11 this title.

12 (3) “Sexual conduct” shall have the same meaning as in section 2821 of
13 this title.

14 (4) “Visual image” includes a photograph, film, videotape, recording, or
15 digital reproduction.

16 (b)(1) No person shall knowingly disclose a visual image of an identifiable
17 person whose intimate areas are visible or who is engaged in sexual conduct
18 when the actor knows or should have known that the depicted person did not
19 consent to the disclosure. A person may be identifiable from the image itself
20 or information displayed in connection with the image. Consent to recording
21 of the visual image does not, by itself, constitute consent for disclosure of the

1 image. A person who violates this subdivision shall be imprisoned not more
2 than two years or fined not more than \$2,000.00, or both.

3 (2) No person shall violate subdivision (1) of this subsection with the
4 intent to harass, intimidate, or stalk the person depicted in the image. A person
5 who violates this subdivision shall be imprisoned not more than three years or
6 fined not more than \$3,000,00.00, or both.

7 (3)(A) No person shall violate subdivision (1) of this subsection with the
8 intent of disclosing the image for profit or for disclosing the image on an
9 Internet website, online services, online application, or mobile application
10 maintained by the person. A person who violates this subdivision shall be
11 imprisoned not more than five years or fined not more than \$10,000.00,
12 or both.

13 (B) A person who maintains an Internet website, online services,
14 online application, or mobile application that contains a visual image of an
15 identifiable person whose intimate areas are visible or who is engaged in
16 sexual conduct shall not solicit or accept a fee or other consideration to
17 remove, delete, correct, modify, or refrain from posting or disclosing the visual
18 image if requested by the depicted person. Such a request by a depicted person
19 shall constitute knowledge on the part of the person who maintains the website,
20 services, or application that the person depicted does not consent to the

1 disclosure and failure to honor the request immediately may result in a
2 violation of this subdivision (3).

3 (c) This section shall not apply to:

4 (1) images involving voluntary exposure in public or commercial
5 settings;

6 (2) disclosures made in the public interest, including the reporting of
7 unlawful conduct, or lawful and common practices of law enforcement,
8 criminal reporting, corrections, legal proceedings, or medical treatment; or

9 (3) disclosures of materials that constitute a matter of public concern.

10 (d)(1) A plaintiff shall have a private cause of action against a defendant
11 who violates subsection (b) of this section and causes the plaintiff emotional
12 distress or economic loss.

13 (2) In addition to any other relief available at law, the Court may order
14 equitable relief, including a temporary restraining order, a preliminary
15 injunction, or a permanent injunction ordering the defendant to cease display
16 or disclosure of the image. The Court may grant injunctive relief maintaining
17 the confidentiality of a plaintiff using a pseudonym.

18 Sec. 3. EFFECTIVE DATE

19 This act shall take effect on July 1, 2015.

1 (Committee vote: _____)

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Representative _____

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FOR THE COMMITTEE