

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) “Minor” means a person less than 18 years of age.

11 (3) “Nude” means any one or more of the following uncovered parts of  
12 the human body:

13 (A) genitals;

14 (B) pubic area;

15 (C) buttocks; or

16 (D) female breast below the top of the areola.

17 (4) “Sexual conduct” shall have the same meaning as in section 2821 of  
18 this title.

19 (5) “Visual image” includes a photograph, film, videotape, recording, or  
20 digital reproduction.

1       (b)(1) No person shall knowingly disclose a visual image of an identifiable  
2       person who is nude or who is engaged in sexual conduct when the actor knows  
3       or should have known that the depicted person did not consent to the  
4       disclosure. A person may be identifiable from the image itself or information  
5       displayed in connection with the image. Consent to recording of the visual  
6       image does not, by itself, constitute consent for disclosure of the image.  
7       Except as provided in subdivision (3) of this subsection, a person who violates  
8       this subdivision shall be imprisoned not more than six months or fined not  
9       more than \$1,000.00, or both.

10       (2) No person shall violate subdivision (1) of this subsection with the  
11       intent to harm the person depicted in the image. Except as provided in  
12       subdivision (3) of this subsection, a person who violates this subdivision shall  
13       be imprisoned not more than two years or fined not more than \$2,000.00, or  
14       both.

15       (3) A delinquency petition shall be filed in the Family Division of the  
16       Superior Court for a minor who violates subdivision (1) or (2) of this  
17       subsection. The minor may be referred to the Juvenile Diversion Program of  
18       the district in which the action is filed.

19       (4) No person shall violate subdivision (1) of this subsection with the  
20       intent of disclosing the image for profit or knowingly maintain an Internet  
21       website, online service, online application, or mobile application for the

1 purpose of disclosing such images. A person who violates this subdivision  
2 shall be imprisoned not more than five years or fined not more than  
3 \$10,000.00, or both.

4 (c) A person who maintains an Internet website, online service, online  
5 application, or mobile application that contains a visual image of an  
6 identifiable person who is nude or who is engaged in sexual conduct shall not  
7 solicit or accept a fee or other consideration to remove, delete, correct, modify,  
8 or refrain from posting or disclosing the visual image if requested by the  
9 depicted person.

10 (d) This section shall not apply to:

11 (1) images involving voluntary exposure in public or commercial  
12 settings;

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

16 (3) disclosures of materials that constitute a matter of public concern; or

17 (4) interactive computer services, as defined in 47 U.S.C. § 230(f)(2), or  
18 information services or telecommunications services, as defined in 47 U.S.C.  
19 § 153, for content provided by another person on the condition that the entity  
20 has a clearly stated process for a person to request the removal of content in

1 violation of this section and responds to such a request in a reasonable period  
2 of time.

3 (e) Jurisdiction?

4 (f)(1) A plaintiff shall have a private cause of action against a defendant  
5 who violates subsection (b) of this section and causes the plaintiff emotional  
6 distress or economic loss.

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

12 Sec. 3. EFFECTIVE DATE

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

14 (Committee vote: \_\_\_\_\_)

15 \_\_\_\_\_

16 Representative \_\_\_\_\_

17 FOR THE COMMITTEE