

1 H.626

2 An act relating to sexual extortion, voyeurism, and disclosure of sexually
3 explicit images without consent

4 It is hereby enacted by the General Assembly of the State of Vermont:

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

6 § 2605. VOYEURISM

7 (a) Definitions. As used in this section:

8 (1) “Bona fide private investigator or bona fide security guard” means
9 an individual lawfully providing services, whether licensed or unlicensed,
10 pursuant to 26 V.S.A. §§ 3151 and 3151a.

11 (2) “Female breast” means any portion of the female breast below the
12 top of the areola.

13 (3) “Circumstances in which a person has a reasonable expectation of
14 privacy” means circumstances in which a reasonable person would believe that
15 ~~his or her~~ the person’s intimate areas would not be visible to the public,
16 regardless of whether that person is in a public or private area. This definition
17 includes circumstances in which a person knowingly disrobes in front of
18 another, but does not expect nor give consent for the other person to
19 photograph, film, or record ~~his or her~~ the person’s intimate areas.

20 (4) “Intimate areas” means the naked or undergarment-clad genitals,
21 pubic area, buttocks, or female breast of a person.

1 (5) “Place where a person has a reasonable expectation of privacy”

2 means:

3 (A) a place in which a reasonable person would believe that ~~he or she~~
4 the person could disrobe in privacy, without ~~his or her~~ the person undressing
5 being viewed by another; or

6 (B) a place in which a reasonable person would expect to be safe
7 from unwanted intrusion or surveillance.

8 (6) “Sexual conduct” ~~shall have~~ has the same meaning as in section
9 2821 of this title.

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

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

15 (9) “Harm” means physical injury, financial injury, or serious emotional
16 distress.

17 (b) Unlawful viewing. No person shall intentionally view, ~~photograph,~~
18 ~~film, or record in any format:~~

19 (1) the intimate areas of another person without that person’s knowledge
20 and consent while the person being viewed, ~~photographed, filmed, or recorded~~
21 is in a place where ~~he or she~~ the person would have a reasonable expectation of

1 privacy or under circumstances in which the person has a reasonable
2 expectation of privacy; or

3 ~~(2) the intimate areas of another person without that person's knowledge~~
4 ~~and consent and under circumstances in which the person has a reasonable~~
5 ~~expectation of privacy~~ a person engaged in sexual conduct without that
6 person's knowledge and consent while the person being viewed is in a place
7 where the person would have a reasonable expectation of privacy or under
8 circumstances in which the person has a reasonable expectation of privacy.

9 (c) Unlawful photographing, filming, or recording. No person shall ~~display~~
10 ~~or disclose to a third party any image recorded in violation of subsection (b);~~
11 ~~(d), or (e) of this section~~ intentionally photograph, film, or record in any
12 format:

13 (1) the intimate areas of another person without that person's knowledge
14 and consent while the person being photographed, filmed, or recorded is in a
15 place where the person would have a reasonable expectation of privacy or
16 under circumstances in which the person has a reasonable expectation of
17 privacy; or

18 (2) a person engaged in sexual conduct without that person's knowledge
19 and consent while the person being photographed, filmed, or recorded is in a
20 place where the person would have a reasonable expectation of privacy or

1 under circumstances in which the person has a reasonable expectation of
2 privacy.

3 (d) Surveillance. No person shall intentionally conduct surveillance or
4 intentionally photograph, film, or record in any format a person without that
5 person's knowledge and consent while the person being surveilled,
6 photographed, filmed, or recorded is in a place where ~~he or she~~ the person
7 would have a reasonable expectation of privacy within a home or residence.
8 Bona fide private investigators and bona fide security guards engaged in
9 otherwise lawful activities within the scope of their employment are exempt
10 from this subsection.

11 (e) Display or disclosure to a third party. No person shall intentionally
12 ~~photograph, film, or record in any format a person without that person's~~
13 ~~knowledge and consent while that person is in a place where a person has a~~
14 ~~reasonable expectation of privacy and that person is engaged in sexual conduct~~
15 display or disclose to a third party an image recorded in violation of subsection
16 (c) of this section.

17 (f) Applicability. This section shall apply to a person who intentionally
18 views, photographs, films, or records the intimate areas of a person as part of a
19 security or theft prevention policy or program at a place of business.

1 (g) Exceptions. This section shall not apply to:

2 (1) a law enforcement officer conducting official law enforcement
3 activities in accordance with State and federal law; or

4 (2) official activities of the Department of Corrections, a law
5 enforcement agency, the Agency of Human Services, or a court for security
6 purposes or during the investigation of alleged misconduct by a person in the
7 custody of the Department of Corrections, a law enforcement agency, the
8 Agency of Human Services, or a court.

9 (h) Constitutionally protected activity. This section is not intended to
10 infringe upon the freedom of the press to gather and disseminate news as
11 guaranteed by the First Amendment to the Constitution of the United States.

12 (i) Affirmative defense. It shall be an affirmative defense to a violation of
13 subsection (b) or (c) of this section that the defendant was a bona fide private
14 investigator or bona fide security guard conducting surveillance in the ordinary
15 course of business, and the violation was unintentional and incidental to
16 otherwise legal surveillance. However, an unintentional and incidental
17 violation of subsection (b) or (c) of this section shall not be a defense to a
18 violation of subsection ~~(e)~~(e) of this section.

19 (j) Penalties.

20 (1) For a first offense, a person who violates subsection (b), (c), or (d);
21 ~~or (e)~~ of this section shall be imprisoned not more than two years or fined not

1 more than \$1,000.00, or both. For a second or subsequent offense, a person
2 who violates subsection (b), (c), or (d), ~~or (e)~~ of this section shall be
3 imprisoned not more than three years or fined not more than \$5,000.00, or
4 both.

5 (2) A person who violates subsection ~~(e)~~(e) of this section shall be
6 imprisoned not more than five years or fined not more than \$5,000.00, or both.

7 (k) Civil.

8 (1) A plaintiff shall have a private cause of action against a defendant
9 who intentionally displays or discloses to a third party an image recorded in
10 violation of subsection (c) of this section and the display or disclosure causes
11 the plaintiff harm.

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

17 (3) In an action brought pursuant to this subsection, the required element
18 in a negligence claim of actual injury to the plaintiff may be satisfied by a
19 diagnosis of a disorder resulting from trauma.

20 (4) A civil action authorized by this subsection may be commenced at
21 any time after the act alleged to have caused the injury or condition.

1 Notwithstanding 1 V.S.A. § 214, this subsection shall apply retroactively to a
2 violation of this section that occurred on or after July 1, 2005, irrespective of
3 any statute of limitations in effect at the time the violation occurred.

4 Sec. 2. 13 V.S.A. § 2606 is amended 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) “Harm” means physical injury, financial injury, or serious emotional
11 distress.

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

14 (A) genitals;

15 (B) pubic area;

16 (C) anus; or

17 (D) post-pubescent female nipple.

18 (4) “Sexual conduct” ~~shall have~~ has the same meaning as in section
19 2821 of this title.

20 (5) “Visual image” includes a photograph, film, videotape, recording, or
21 digital reproduction, including an image created or altered by digitization.

1 (6) “Digitization” means the process of altering an image in a realistic
2 manner utilizing an image or images of a person, including images other than
3 the person depicted, or computer-generated images.

4 (b)(1) ~~A No person violates this section if the person shall~~ knowingly
5 ~~discloses~~ disclose a visual image of an identifiable person who is nude or who
6 is engaged in sexual conduct, without the person’s consent, with the intent to
7 harm, harass, or intimidate, ~~threaten, or coerce~~ the person depicted, and the
8 disclosure would cause a reasonable person to suffer harm. ~~A person may be~~
9 ~~identifiable from the image itself or information offered in connection with the~~
10 ~~image. Consent to recording or production of the visual image does not, by~~
11 ~~itself, constitute consent for disclosure of the image.~~ A person who violates
12 this subdivision ~~(1)~~ shall be imprisoned not more than two years or fined not
13 more than \$2,000.00, or both.

14 ~~(2)~~ A person who violates this subdivision ~~(1)~~ ~~of this subsection~~ with the
15 intent of disclosing the image for financial profit shall be imprisoned not more
16 than five years or fined not more than \$10,000.00, or both.

17 (2) For purposes of this section, a person may be identifiable from the
18 image itself or information offered in connection with the image. Consent to
19 recording or production of the visual image does not, by itself, constitute
20 consent for disclosure of the image.

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

7 (d) This section shall not apply to:

8 (1) Images involving voluntary nudity or sexual conduct in public or
9 commercial settings or in a place where a person does not have a reasonable
10 expectation of privacy.

11 (2) Disclosures made in the public interest, including the reporting of
12 unlawful conduct, or lawful and common practices of law enforcement,
13 criminal reporting, corrections, legal proceedings, or medical treatment.

14 (3) Disclosures of materials that constitute a matter of public concern.

15 (4) Interactive computer services, as defined in 47 U.S.C. § 230(f)(2), or
16 information services or telecommunications services, as defined in 47 U.S.C.
17 § 153, for content solely provided by another person. This subdivision shall
18 not preclude other remedies available at law.

19 (e)(1) A plaintiff shall have a private cause of action against a defendant
20 who knowingly discloses, without the plaintiff's consent, an identifiable visual

1 image of the plaintiff while the plaintiff is nude or engaged in sexual conduct
2 and the disclosure causes the plaintiff harm.

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

8 (3) In an action brought pursuant to this subsection, the required element
9 in a negligence claim of actual injury to the plaintiff may be satisfied by a
10 diagnosis of a disorder resulting from trauma.

11 (4) A civil action authorized by this subsection may be commenced at
12 any time after the act alleged to have caused the injury or condition.
13 Notwithstanding 1 V.S.A. § 214, this subsection shall apply retroactively to a
14 violation of this section that occurred on or after July 1, 2015, irrespective of
15 any statute of limitations in effect at the time the violation occurred.

16 Sec. 3. 13 V.S.A. § 2607 is added to read:

17 § 2607. SEXUAL EXTORTION

18 (a) As used in this section:

19 (1) “Nude” has the same meaning as in section 2606 of this title.

20 (2) “Serious bodily injury” has the same meaning as in section 1021 of
21 this title.

1 (3) “Sexual conduct” has the same meaning as in section 2821 of this
2 title.

3 (4) “Visual image” has the same meaning as is section 2606 of this title.

4 (b) No person shall knowingly threaten to disclose a visual image of an
5 identifiable person who is nude or who is engaged in sexual conduct, without
6 the person’s consent, with the intent to compel a person to:

7 (1) produce nude images or images of sexual conduct;

8 (2) engage in sexual conduct;

9 (3) engage in any act against the person’s will;

10 (4) refrain from engaging in any act in which the person has a legal right
11 to engage; or

12 (5) provide money or anything of value.

13 (c) With the intent to compel a person to produce nude visual images or
14 visual images of sexual conduct or to engage in sexual conduct, no person shall
15 knowingly threaten to:

16 (1) accuse a person of a crime or cause criminal charges to be instituted
17 against a person;

18 (2) cause injury to a person or property;

19 (3) expose or publicize an asserted fact, whether true or false, intending
20 to subject another person to hatred, contempt, or ridicule; or

21 (4) report a person’s immigration status or suspected immigration status.

1 (d)(1) A person who violates this section shall be imprisoned not more than
2 three years or fined not more than \$3,000.00, or both, if the victim of the
3 offense is 18 years of age or older.

4 (2) A person who violates this section shall be imprisoned not more than
5 10 years or fined not more than \$10,000.00, or both, if the victim of the offense
6 is under 18 years of age.

7 (3) If serious bodily injury or death results from a violation of this
8 section, the person convicted of the violation shall be imprisoned not more
9 than 15 years or fined not more \$15,000.00, or both.

10 (e) A person who, in good faith and in a timely manner, reports to law
11 enforcement that the person is a victim of a violation of this section shall not
12 be cited, arrested, or prosecuted for a violation of section 2802 (disseminating
13 indecent material to a minor in the presence of the minor), 2802a
14 (disseminating indecent material to a minor outside the presence of the minor),
15 or 2802b (minor electronically disseminating indecent material to another
16 person) of this title.

17 (f) The immunity provisions of this section apply only to the use and
18 derivative use of evidence gained as a proximate result of the person reporting
19 to law enforcement that the person is a victim of a violation of this section and
20 do not preclude prosecution of the person on the basis of evidence obtained
21 from an independent source.

1 Sec. 4. 13 V.S.A. § 4501 is amended to read:

2 § 4501. LIMITATION OF PROSECUTIONS FOR CERTAIN CRIMES

3 (a) Prosecutions for aggravated sexual assault, aggravated sexual assault of
4 a child, sexual assault, sexual exploitation of a minor as defined in subsection
5 3258(c) of this title, human trafficking, aggravated human trafficking, murder,
6 manslaughter, arson causing death, and kidnapping may be commenced at any
7 time after the commission of the offense.

8 (b) Prosecutions for lewd and lascivious conduct, sexual abuse of a
9 vulnerable adult under subsection 1379(a) of this title, grand larceny, robbery,
10 burglary, embezzlement, forgery, bribery offenses, false claims, fraud under
11 33 V.S.A. § 141(d), and felony tax offenses shall be commenced within six
12 years after the commission of the offense, and not after.

13 (c) Prosecutions for any of the following offenses shall be commenced
14 within 40 years after the commission of the offense, and not after:

15 (1) lewd and lascivious conduct under section 2601 of this title alleged
16 to have been committed against a child under 18 years of age;

17 (2) maiming under section 2701 of this title;

18 (3) lewd or lascivious conduct with a child under section 2602 of this
19 title;

- 1 (4) sexual exploitation of children under chapter 64 of this title; ~~and~~
2 (5) sexual abuse of a vulnerable adult under subsection 1379(b) of this
3 title;
4 (6) voyeurism involving photographing, filming, or recording under
5 subsection 2605(c) of this title;
6 (7) voyeurism involving display or disclosure of images to a third party
7 under subsection 2605(e) of this title;
8 (8) disclosure of sexually explicit images without consent under section
9 2606 of this title; and
10 (9) sexual extortion under section 2607 of this title.
11 (d) Prosecutions for arson and first degree aggravated domestic assault
12 shall be commenced within 11 years after the commission of the offense, and
13 not after.
14 (e) Prosecutions for other felonies and for misdemeanors shall be
15 commenced within three years after the commission of the offense, and not
16 after.
17 Sec. 5. EFFECTIVE DATE
18 This act shall take effect on July 1, 2026.