



HOUSE BILL 792: Privacy/Protection From Revenge Postings

2015-2016 General Assembly

Committee:	Senate Judiciary I	Date:	July 23, 2015
Introduced by:	Reps. Bryan, Bishop, Faircloth	Prepared by:	Brad Krehely
Analysis of:	Second Edition		Committee Counsel

SUMMARY: House Bill 792 would create a criminal offense and a civil cause of action for disclosing certain images in which there is a reasonable expectation of privacy.

BILL ANALYSIS: House Bill 792 would create a new criminal offense for the disclosure of private images within the context of a personal relationship. A person would be guilty of a Class H felony if, with the intent to coerce, harass, intimidate, demean, humiliate, or cause financial loss to the depicted person, or with the intent to cause others to coerce, harass, intimidate, demean, humiliate or cause financial loss to the depicted person, the person knowingly discloses an image of another identifiable person whose intimate parts are exposed or who is engaged in sexual conduct, when the person knows or should have known that the depicted person has not consented to such disclosure and under circumstances that the person knew or should have known that the depicted person had a reasonable expectation of privacy.

The act would not apply to images involving voluntary exposure in public or commercial settings, to disclosures made in the public interest, or to providers of an interactive computer service as defined in the federal Communications Decency Act, who are already immune from lawsuits over their users' speech.

House Bill 792 would also create a civil cause of action against any person who discloses or uses the image, and allows the person whose image is disclosed or used to recover from the other person any of the following:

- Actual damages, computed at the rate of \$1,000 per day for each day of the violation or \$10,000, whichever is higher.
- Punitive damages.
- Attorneys' fees and other reasonable litigation costs.

The civil cause of action would have to be brought no more than four years after the last disclosure.

EFFECTIVE DATE: This act becomes effective December 1, 2015, and applies to offenses committed on or after that date and to actions initiated on or after that date.

Kelly Tornow, Counsel to House Judiciary IV, contributed substantially to this summary.

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