



# HOUSE BILL 792: Privacy/Protection From Revenge Postings

2015-2016 General Assembly

**Committee:**

**Introduced by:**

**Analysis of:** S.L. 2015-250

**Date:**

**Prepared by:** Kara McCraw  
Staff Attorney

**SUMMARY:** S.L. 2015-250 makes the following changes:

- *Creates a criminal offense and a civil cause of action for knowingly disclosing with the intent to cause certain harms certain images of intimate parts or depicting sexual conduct in which there is a reasonable expectation of privacy.*
- *Requires the Joint Legislative Oversight Committee on Justice and Public Safety to study improper disclosure of images of people superimposed onto other images exposing intimate parts or depicting sexual conduct.*
- *Creates three new criminal offenses related to exposure of private parts on private premises.*

*This act became effective December 1, 2015, and applies to offenses committed on or after that date and to actions initiated on or after that date.*

**BILL ANALYSIS:** S.L. 2015-250 (HB 792) creates a new criminal offense for the disclosure of private images within the context of a personal relationship. A person is guilty of the offense of disclosure of private images 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 affirmatively 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 does 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.

The offense is a Class 1 misdemeanor for the first offense of an offender who is under 18 at the time of the offense. The offense is a Class H felony if the offender is 18 or older at the time of the offense or the offender is under 18 for any second or subsequent offense.

The act also creates 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.

O. Walker Reagan  
Director



Research Division  
(919) 733-2578

# House Bill 792

Page 2

- Attorneys' fees and other reasonable litigation costs.

The civil cause of action must be brought no more than one year after the initial discovery of the disclosure, but in no event more than seven years from the most recent disclosure of the private image.

The act requires the Joint Legislative Oversight Committee on Justice and Public Safety to study improper disclosure of images of people superimposed onto other images exposing intimate parts or depicting sexual conduct, and report its findings to the General Assembly by April 1, 2016.

The act also creates three new criminal offenses related to exposure of private parts:

- A Class 2 misdemeanor for willful exposure of private parts in the presence of anyone other than a consenting adult on the private premises of another or near to as to be seen from the private premises for the purposes of arousing or gratifying sexual desire.
- A Class 2 misdemeanor for willful exposure of private parts by a person located in a private place with the knowing intent to be seen by a person in a public place.
- A Class 2 misdemeanor for willful exposure of private parts in a private residence where the person does not reside if that person is at least 18 and in the presence of another person less than 16 who is a resident or that private residence.

**EFFECTIVE DATE:** This act became 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.*