



HOUSE BILL 399: Stop Images Taken W/O Consent From Dissemin.

2017-2018 General Assembly

Committee:	House Judiciary II	Date:	April 11, 2017
Introduced by:	Reps. Malone, Adcock, Faircloth, R. Turner	Prepared by:	Susan Sitze
Analysis of:	First Edition		Jessica Sammons Committee Co-Counsel

OVERVIEW: *House Bill 399 would amend the privacy element for disclosure of private images to require the offender to have obtained the image without consent or under circumstances where the offender knew or should have known that the depicted person expected the images to remain private.*

[As introduced, this bill was identical to S255, as introduced by Sens. Bishop, Britt, Bryant, which is currently in Senate Rules and Operations of the Senate.]

CURRENT LAW: A person is guilty of disclosure of private images if the person knowingly discloses an image of another person whose intimate parts are exposed or who is engaged in sexual conduct, and all of the following elements are met:

- (1) The person disclosed the private images with the intent to coerce, harass, intimidate, demean, humiliate, or cause financial loss to the depicted person, or to cause others to do the same.
- (2) The depicted person is identifiable from the image or context surrounding the disclosure.
- (3) The disclosure was made without the affirmative consent of the depicted person.
- (4) The disclosure was made under circumstances such that the person knew or should have known that the depicted person had a reasonable expectation of privacy. *A reasonable expectation of privacy exists when the depicted person has consented to the disclosure of an image within the context of a personal relationship and the depicted person reasonably believes that the disclosure will not go beyond that relationship.*

The offense is a Class 1 misdemeanor for a first-time offender who is under age 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 for any second or subsequent offense by an offender under age 18.

BILL ANALYSIS: House Bill 399 would amend the privacy requirement for the offense of disclosure of private images. Rather than a "reasonable expectation of privacy" standard, disclosure of private images would require that the person had obtained the disclosed image without the consent of the depicted person, or under circumstances such that the person knew or should have known that the depicted person expected the images to remain private.

House Bill 399 would also expand the definition of *image* to include computer or computer-generated images or pictures and other reproductions produced by electronic or mechanical means.

EFFECTIVE DATE: This act would become effective December 1, 2017, and apply to offenses committed on or after that date.

Karen Cochrane-Brown
Director



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Legislative Analysis
Division
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