



HOUSE BILL 399: Stop Images Taken Without Consent From Dissemination.

2017-2018 General Assembly

Committee:

Introduced by:

Analysis of: S.L. 2017-93

Date:

August 29, 2017

Prepared by:

Jennifer H. Bedford
Staff Attorney

OVERVIEW: *S.L. 2017-9 amends the criminal law that prohibits the disclosure of private images. This act becomes effective December 1, 2017, and applies to offenses committed on or after that date.*

BACKGROUND: S. L. 2015-250 created a new criminal offense for the disclosure of private images within the context of a personal relationship.

CURRENT LAW AND BILL ANALYSIS: It is illegal to knowingly disclose, with the intent to embarrass, an image of another person’s intimate parts without that person’s consent. (G. S. 14-190.5A)

Current law defines ‘image’ as “a photograph, film, videotape, recording, digital, or other reproduction.” This act expands the definition to include a “live transmission, or other reproduction that is made or produced by electronic, mechanical, or other means.”

Current law only allows for an expectation of privacy in context of a “personal relationship”. This act eliminates any reference to a “personal relationship”.

Current law prohibits *disclosing* an image in private circumstances. Disclosure includes transferring, publishing, distributing, or reproducing.

This act clarifies that the law prohibits *obtaining* an image under private circumstances.

Current law provides a “**reasonable expectation of privacy**” standard, a legal term-of-art historically used in the analysis of constitutional violations of the fourth amendment by a representative of the state. This act amends the standard to “the depicted person **expected the images to remain private.**”

This act also directs the Joint Legislative Oversight Committee on Justice and Public Safety to study the issue of improper disclosure of an image of a person superimposed onto another image of exposed intimate parts, or depicting sexual conduct.

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

Karen Cochrane-Brown
Director



H 3 9 9 - S M T - 1 0 9 S L - V - 1

Legislative Analysis
Division
919-733-2578