

(KEYWORD, SUMMARY, AND DIGEST as amended by Senate committee amendments)

CRIME: Creates the crime of nonconsensual disclosure of a private image.

DIGEST

HB 489 Reengrossed

2015 Regular Session

Stokes

Proposed law creates the crime of nonconsensual disclosure of a private image and provides that a person commits this offense when all of the following occur:

- (1) The person intentionally discloses an image of another person who is seventeen years of age or older, who is identifiable from the image or information displayed in connection with the image, and whose intimate parts are exposed in whole or in part.
- (2) The person obtained the image under circumstances in which a reasonable person would know or understand that the image was to remain private.
- (3) The person knew or should have known that the person in the image has not consented to the disclosure of the image.
- (4) The person has the intent to harass or cause emotional distress to the person in the image, and the person who commits the offense knew or should have known that the disclosure could harass or cause emotional distress to the person in the image.

Penalties for the proposed law offense include a fine of up to \$10,000, imprisonment for up to 2 years, or both.

Proposed law provides that disclosure of the image under any of the following circumstances does not constitute commission of the offense:

- (1) When the disclosure is made by any criminal justice agency for the purpose of a lawful criminal investigation.
- (2) When the disclosure is made for the purpose of, or in connection with, the reporting of unlawful conduct to law enforcement or a criminal justice agency.
- (3) When the person depicted in the image voluntarily or knowingly exposed his or her intimate parts in a public setting.
- (4) When the image is related to a matter of public interest, public concern, or related to a public figure who is intimately involved in the resolution of important public questions, or by reason of his fame shapes events in areas of concern to society.

Proposed law defines "criminal justice agency", "disclosure", "image", and "intimate parts".

Provides that this proposed law shall not be construed to impose liability on providers of any of the following services for content provided by another person: interactive computer service, information service, or telecommunications service. Proposed law provides that "interactive computer service", "information service", and "telecommunications service" shall have the same meaning as in present federal law. (47 U.S.C. 153 and 230)

(Adds R.S. 14:283.2)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Amend the provisions relative to the liability of certain service providers for content provided by another person.
2. Remove cable operator from the list of entities upon which liability may not be imposed pursuant to proposed law for content provided by another person.
3. Delete the definitions of cable operator, interactive computer service, and telecommunications service, and provide that the terms "interactive computer service", "information service", and "telecommunications service" shall have the same meaning as in present federal law.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary C to the reengrossed bill

1. Change one element of proposed law crime to require both intent to harass or cause emotional distress and that the offender knew or should have known that disclosure of the image could harass or cause emotional distress.