

2015 Regular Session

HOUSE BILL NO. 489

BY REPRESENTATIVE STOKES

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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

1 AN ACT

2 To enact R.S. 14:283.2, relative to the nonconsensual disclosure of private images; to create
3 the crime of nonconsensual disclosure of a private image; to provide for elements of
4 the offense; to provide for criminal penalties; to provide for definitions; to provide
5 for exceptions; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 14:283.2 is hereby enacted to read as follows:

8 §283.2. Nonconsensual disclosure of a private image

9 A. A person commits the offense of nonconsensual disclosure of a private
10 image when all of the following occur:

11 (1) The person intentionally discloses an image of another person who is
12 seventeen years of age or older, who is identifiable from the image or information
13 displayed in connection with the image, and whose intimate parts are exposed in
14 whole or in part.

15 (2) The person who discloses the image obtained it under circumstances in
16 which a reasonable person would know or understand that the image was to remain
17 private.

18 (3) The person who discloses the image knew or should have known that the
19 person in the image has not consented to the disclosure of the image.

1 (4) The person who discloses the image has the intent to harass or cause
2 emotional distress to the person in the image, or the person who commits the offense
3 knew or should have known that the disclosure could harass or cause emotional
4 distress to the person in the image.

5 B. Disclosure of an image under any of the following circumstances does not
6 constitute commission of the offense defined in Subsection A of this Section:

7 (1) When the disclosure is made by any criminal justice agency for the
8 purpose of a criminal investigation that is otherwise lawful.

9 (2) When the disclosure is made for the purpose of, or in connection with,
10 the reporting of unlawful conduct to law enforcement or a criminal justice agency.

11 (3) When the person depicted in the image voluntarily or knowingly exposed
12 his or her intimate parts in a public setting.

13 (4) When the image is related to a matter of public interest, public concern,
14 or related to a public figure who is intimately involved in the resolution of important
15 public questions, or by reason of his fame shapes events in areas of concern to
16 society.

17 C. For purposes of this Section:

18 (1) "Cable operator" means any person or group of persons who provides
19 cable service over a cable system and directly, or through one or more affiliates,
20 owns a significant interest in such cable system, or who otherwise controls or is
21 responsible for, through any arrangement, the management and operation of such a
22 cable system.

23 (2) "Criminal justice agency" means any government agency or subunit
24 thereof, or private agency that, through statutory authorization or a legal formal
25 agreement with a governmental unit or agency, has the power of investigation, arrest,
26 detention, prosecution, adjudication, treatment, supervision, rehabilitation, or release
27 of persons suspected, charged, or convicted of a crime; or that collects, stores,
28 processes, transmits, or disseminates criminal history record or crime information.

1 (3) "Disclosure" means to, electronically or otherwise, transfer, give,
2 provide, distribute, mail, deliver, circulate, publish on the internet, or disseminate by
3 any means.

4 (4) "Image" means any photograph, film, videotape, digital recording, or
5 other depiction or portrayal of an object, including a human body.

6 (5) "Interactive computer service" means any information service, system,
7 or access software provider that offers users the capability for generating, acquiring,
8 storing, transforming, processing, retrieving, utilizing, or making available
9 information, including a service or system that provides or enables computer access
10 by multiple users to a computer server, including specifically a service or system that
11 provides access to the internet and such systems operated or services offered by
12 libraries or educational institutions.

13 (6) "Intimate parts" means the fully unclothed, partially unclothed, or
14 transparently clothed genitals, pubic area, or anus. If the person depicted in the
15 image is a female, "intimate parts" also means a partially or fully exposed nipple,
16 including exposure through transparent clothing.

17 (7) "Telecommunications service" means the offering of telecommunications
18 for a fee directly to the public, regardless of the facilities used.

19 D. Nothing in this Section shall be construed to impose liability on any of
20 the following entities as a result of content or information provided by a person using
21 the services of the entity:

22 (1) Provider of an interactive computer service.

23 (2) Provider of a telecommunications service.

24 (3) Cable operator.

25 E. Whoever commits the offense of nonconsensual disclosure of a private
26 image shall be fined not more than ten thousand dollars, imprisoned with or without
27 hard labor for not more than two years, or both.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 489 Original

2015 Regular Session

Stokes

Abstract: Creates the crime of nonconsensual disclosure of a private image, and provides elements, penalties, and exceptions for the offense.

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, or 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 any of the following entities as a result of content or information provided by a person using the services of the entity: provider of an interactive computer service, provider of a telecommunications service, and cable operator.

(Adds R.S. 14:283.2)