

HOUSE BILL NO. 2678

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice

on _____)

(Patron Prior to Substitute--Delegate Simon)

A BILL to amend and reenact § 18.2-386.2 of the Code of Virginia, relating to unlawful dissemination or sale of images of another identifiable person; penalty.

Be it enacted by the General Assembly of Virginia:**1. That § 18.2-386.2 of the Code of Virginia is amended and reenacted as follows:****§ 18.2-386.2. Unlawful dissemination or sale of images of another; penalty.**

A. Any person who, with the intent to coerce, harass, or intimidate, maliciously disseminates or sells any videographic or still image created by any means whatsoever that depicts another identifiable person who is totally nude, or in a state of undress so as to expose the genitals, pubic area, buttocks, or female breast, where such person knows or has reason to know that he is not licensed or authorized to disseminate or sell such videographic or still image is guilty of a Class 1 misdemeanor. However, if a person uses services of an Internet service provider, an electronic mail service provider, or any other information service, system, or access software provider that provides or enables computer access by multiple users to a computer server in committing acts prohibited under this section, such provider shall not be held responsible for violating this section for content provided by another person.

For purposes of this section, "identifiable person" includes a person whose image was used in creating, adapting, or modifying the videographic or still image and who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic.

B. Venue for a prosecution under this section may lie in the jurisdiction where the unlawful act occurs or where any videographic or still image created by any means whatsoever is produced, reproduced, found, stored, received, or possessed in violation of this section.

C. The provisions of this section shall not preclude prosecution under any other statute.

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