

House Bill 838

By: Representatives Tanner of the 9th, Golick of the 40th, Ramsey of the 72nd, Powell of the 171st, Hamilton of the 24th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 3 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated,
2 relating to invasions of privacy, so as to prohibit the transmission of photography or video
3 depicting nudity or sexually explicit conduct of an adult under certain circumstances; to
4 provide for definitions; to provide for penalties; to provide for venue; to provide for
5 exceptions; to provide for related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 SECTION 1.

8 Article 3 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to
9 invasions of privacy, is amended by adding a new part to read as follows:

10 Part 3

11 16-11-90.

12 (a) As used in this Code section, the term:

13 (1) 'Nudity' means:

14 (A) The showing of the human male or female genitals, pubic area, or buttocks without
15 any covering or with less than a full opaque covering;

16 (B) The showing of the female breasts without any covering or with less than a full
17 opaque covering; or

18 (C) The depiction of covered male genitals in a discernibly turgid state.

19 (2) 'Sexually explicit conduct' shall have the same meaning as set forth in Code Section
20 16-12-100.

21 (b) A person commits the offense of intimate harassment if he or she knowingly:

22 (1) Transmits or posts to the Internet, in one or more transmissions or posts, a
23 photograph or video which depicts nudity or sexually explicit conduct of an adult when

- 24 the transmission or post is intended to cause substantial emotional distress to the depicted
25 person and serves no legitimate purpose to the depicted person; or
- 26 (2) Causes the transmission or posting to the Internet, in one or more transmissions or
27 posts, of a photograph or video which depicts nudity or sexually explicit conduct of an
28 adult when the transmission or post is intended to cause substantial emotional distress to
29 the depicted person and serves no legitimate purpose to the depicted person.
- 30 (c) Any person who violates this Code section shall be guilty of a felony and, upon
31 conviction thereof, shall be punished by imprisonment of not less than one nor more than
32 five years, a fine of not more than \$100,000.00, or both.
- 33 (d) A person shall be subject to prosecution in this state pursuant to Code Section 17-2-1
34 for any conduct made unlawful by this Code section which the person engages in while:
- 35 (1) Either within or outside of this state if, by such conduct, the person commits a
36 violation of this Code section which involves an individual who resides in this state; or
37 (2) Within this state if, by such conduct, the person commits a violation of this Code
38 section which involves an individual who resides within or outside this state.
- 39 (e) The provisions of subsection (b) of this Code section shall not apply to:
- 40 (1) The activities of law enforcement and prosecution agencies in the investigation and
41 prosecution of criminal offenses;
- 42 (2) Legitimate medical, scientific, or educational activities;
- 43 (3) Any person who transmits or posts a photograph or video depicting only himself or
44 herself engaged in nudity or sexually explicit conduct; or
- 45 (4) The transmission or posting of a photograph or video that was originally made for
46 commercial purposes.
- 47 (f) Any violation of this Code section shall constitute a separate offense and shall not
48 merge with any other crimes set forth in this title."

49 **SECTION 2.**

50 All laws and parts of laws in conflict with this Act are repealed.