

The Senate Committee on Judiciary offered the following substitute to SB 78:

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 3 of Article 3 of Chapter 11 of Title 16 of the Official Code of Georgia
2 Annotated, relating to invasion of privacy, so as to revise the prohibition on electronically
3 transmitting or posting nude or sexually explicit photographs or videos for purposes of
4 harassing the depicted person; to provide for an increased penalty for the electronic
5 transmission or posting to a web page that is accessible to the general public; to provide for
6 related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Part 3 of Article 3 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated,
10 relating to invasion of privacy, is amended by revising subsections (b) and (c) of Code
11 Section 16-11-90, relating to prohibition on nude or sexually explicit electronic
12 transmissions, as follows:

13 "(b) A person violates this Code section if he or she, knowing the content of a transmission
14 or post, knowingly and without the consent of the depicted person:

15 (1) Electronically transmits or posts, in one or more transmissions or posts, a photograph
16 or video which depicts nudity or sexually explicit conduct of an adult, including a falsely

17 created videographic or still image, when the transmission or post is harassment or causes
18 financial loss to the depicted person and serves no legitimate purpose to the depicted
19 person; or

20 (2) Causes the electronic transmission or posting, in one or more transmissions or posts,
21 of a photograph or video which depicts nudity or sexually explicit conduct of an adult,
22 including a falsely created videographic or still image, when the transmission or post is
23 harassment or causes financial loss to the depicted person and serves no legitimate
24 purpose to the depicted person;

25 (3) Electronically transmits or posts in one or more transmissions or posts a photograph
26 or video which depicts nudity or sexually explicit conduct of an adult, including a falsely
27 created videographic or still image, to a website, peer-to-peer file-sharing site, thumbnail
28 gallery, movie gallery post, linked list, live webcam, web page, or message board which
29 advertises or promotes its service as showing, previewing, or distributing sexually
30 explicit conduct when the transmission or post is harassment or causes financial loss to
31 the depicted person and serves no legitimate purpose to the depicted person; or

32 (4) Causes the electronic transmission or posting in one or more transmissions or posts
33 of a photograph or video which depicts nudity or sexually explicit conduct of an adult,
34 including a falsely created videographic or still image, to a website, peer-to-peer
35 file-sharing site, thumbnail gallery, movie gallery post, linked list, live webcam, web
36 page, or message board which advertises or promotes its service as showing, previewing,
37 or distributing sexually explicit conduct when the transmission or post is harassment or
38 causes financial loss to the depicted person and serves no legitimate purpose to the
39 depicted person.

40 Nothing in this Code section shall be construed to impose liability on an interactive
41 computer service, as such term is defined in 47 U.S.C. 230(f)(2), or an information service
42 or telecommunications service, as such terms are defined in 47 U.S.C. 153, for content
43 provided by another person.

44 (c)(1) Any person who violates paragraph (1) or (2) of subsection (b) of this Code
45 section shall be guilty of a misdemeanor of a high and aggravated nature; provided,
46 however, that upon a second or subsequent violation of this Code section, he or she shall
47 be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment of
48 not less than one nor more than five years, a fine of not more than \$100,000.00, or both.
49 (2) Any person who violates paragraph (3) or (4) of subsection (b) of this Code section
50 shall be guilty of a felony and, upon conviction thereof, shall be punished by
51 imprisonment of not less than one nor more than 10 years, a fine of not more than
52 \$200,000.00, or both."

53

SECTION 2.

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