

Senate Bill 78

By: Senators Jones II of the 22nd, Anderson of the 43rd, Harrell of the 40th, Parent of the 42nd, Butler of the 55th and others

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 to a website, peer-to-peer file-sharing site, thumbnail gallery, movie gallery post,
27 linked list, live webcam, web page, or message board which advocates or promotes its
28 service as showing, previewing, or distributing sexually explicit conduct when the
29 transmission or post is harassment or causes financial loss to the depicted person and
30 serves no legitimate purpose to the depicted person; or

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

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

41 (c)(1) Any person who violates paragraph (1) or (2) of subsection (b) of this Code
42 section shall be guilty of a misdemeanor of a high and aggravated nature; provided,
43 however, that upon a second or subsequent violation of this Code section, he or she shall

44 be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment of
45 not less than one nor more than five years, a fine of not more than \$100,000.00, or both.
46 (2) Any person who violates paragraph (3) or (4) of subsection (b) of this Code section
47 shall be guilty of a felony and, upon conviction thereof, shall be punished by
48 imprisonment of not less than one nor more than 10 years, a fine of not more than
49 \$200,000.00, or both."

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SECTION 2.

51 All laws and parts of laws in conflict with this Act are repealed.