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HOUSE BILL NO. 2654  
AMENDMENT IN THE NATURE OF A SUBSTITUTE  
(Proposed by the House Committee for Courts of Justice  
on \_\_\_\_\_)  
(Patron Prior to Substitute—Delegate Williams)

*A BILL to amend and reenact §§ 18.2-386.2 and 19.2-8 of the Code of Virginia, relating to unlawful dissemination of intimate images of another; penalties.*

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 18.2-386.2 and 19.2-8 of the Code of Virginia are amended and reenacted as follows:**

**§ 18.2-386.2. Unlawful dissemination of intimate images of another; penalties.**

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 person (i) who is totally nude; (ii) who is in a state of undress so as to expose the genitals, pubic area, buttocks, or female breast; or (iii) whose genitals, pubic area, buttocks, or female breast are not exposed but such videographic or still image is obscene as defined in § 18.2-372 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. For purposes of this subsection, "another" *As used in this section:*

"Another person" includes a person whose image was used in creating, adapting, or modifying a videographic or still image, *either manually or by use of machine learning techniques or any other computer-generated or machine-generated means*, with the intent to depict an actual person and who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic.

"Intimate image" means any videographic or still image created by any means whatsoever that depicts another person (i) who is totally nude; (ii) who is in a state of undress so as to expose the genitals, pubic area, buttocks, or female breast; or (iii) whose genitals, pubic area, buttocks, or female breast are not exposed but such videographic or still image is obscene as defined in § 18.2-372. "Intimate image" does not include any videographic or still image that is published by a commercial enterprise for use by the public.

B. Any person who intentionally disseminates an intimate image and knows or reasonably should have known that he is (i) not licensed to disseminate such image or (ii) not authorized by the person portrayed in such intimate image or by law to disseminate such image is guilty of a Class 1 misdemeanor. A second or subsequent offense under this subsection after such person has been at liberty as defined in § 53.1-151

31 *between each conviction is a Class 6 felony.*

32 *C. Any person who violates subsection B (i) with malicious intent towards the person portrayed in the*  
33 *intimate image or (ii) to secure pecuniary gain for himself is guilty of a Class 6 felony. A second or*  
34 *subsequent offense under this subsection after such person has been at liberty as defined in § 53.1-151*  
35 *between each conviction is a Class 5 felony.*

36 *D. Any person who violates subsection C and intentionally selects another person against whom the*  
37 *offense is committed because of such person's race, religious conviction, gender, disability, gender identity,*  
38 *sexual orientation, color, or ethnic or national origin is guilty of a Class 4 felony.*

39 *E. Any dissemination of multiple intimate images of the same person as part of a common act, transaction,*  
40 *or scheme shall be deemed a single offense.*

41 *F. The provisions of this section shall not apply to any intimate image created by any means whatsoever*  
42 *by law enforcement pursuant to a criminal investigation that is otherwise lawful.*

43 *G. The fact that the person portrayed in the intimate image (i) provided consent for the creation of such*  
44 *image, (ii) disseminated such image to the alleged offender or any other person, or (iii) engaged in conduct*  
45 *for the creation of such image and the dissemination of such image on the Internet or by any other means*  
46 *shall not create a presumption that such person consented to any further dissemination of such image.*

47 *H. If a person uses services of an Internet service provider, an electronic mail service provider, or any*  
48 *other information service, system, or access software provider that provides or enables computer access by*  
49 *multiple users to a computer server in committing acts prohibited under this section, such provider shall not*  
50 *be held responsible for violating this section for content provided by another person.*

51 ~~*I. Venue for a prosecution under this section may lie in the jurisdiction where (i) the victim resides, (ii)*~~  
52 ~~*the unlawful act occurs, or where (iii) any videographic or still intimate image created by any means*~~  
53 ~~*whatsoever is produced, reproduced, found, stored, received, or possessed in violation of this section.*~~

54 ~~*J. The provisions of this section shall not preclude prosecution under any other statute.*~~

55 **§ 19.2-8. Limitation of prosecutions.**

56 *A prosecution for a misdemeanor, or any pecuniary fine, forfeiture, penalty or amercement, shall be*  
57 *commenced within one year next after there was cause therefor, except that a prosecution for petit larceny*  
58 *may be commenced within five years, and for an attempt to produce abortion, within two years after*  
59 *commission of the offense.*

60 A prosecution for any misdemeanor violation of § 54.1-3904 shall be commenced within two years of the  
61 discovery of the offense.

62 A prosecution for violation of laws governing the placement of children for adoption without a license  
63 pursuant to § 63.2-1701 shall be commenced within one year from the date of the filing of the petition for  
64 adoption.

65 A prosecution for making a false statement or representation of a material fact knowing it to be false or  
66 knowingly failing to disclose a material fact, to obtain or increase any benefit or other payment under the  
67 Virginia Unemployment Compensation Act (§ 60.2-100 et seq.) shall be commenced within three years next  
68 after the commission of the offense.

69 A prosecution for any violation of § 10.1-1320, 62.1-44.32 (b), 62.1-194.1, or Article 11 (§ 62.1-44.34:14  
70 et seq.) of Chapter 3.1 of Title 62.1 that involves the discharge, dumping or emission of any toxic substance  
71 as defined in § 32.1-239 shall be commenced within three years next after the commission of the offense.

72 Prosecution of Building Code violations under § 36-106 shall commence within one year of discovery of  
73 the offense by the building official, provided that such discovery occurs within two years of the date of initial  
74 occupancy or use after construction of the building or structure, or the issuance of a certificate of use and  
75 occupancy for the building or structure, whichever is later. However, prosecutions under § 36-106 relating to  
76 the maintenance of existing buildings or structures as contained in the Uniform Statewide Building Code  
77 shall commence within one year of the issuance of a notice of violation for the offense by the building  
78 official.

79 Prosecution of any misdemeanor violation of § 54.1-111 shall commence within one year of the discovery  
80 of the offense by the complainant, but in no case later than five years from occurrence of the offense.

81 Prosecution of any misdemeanor violation of any professional licensure requirement imposed by a locality  
82 shall commence within one year of the discovery of the offense by the complainant, but in no case later than  
83 five years from occurrence of the offense.

84 Prosecution of nonfelonious offenses which constitute malfeasance in office shall commence within two  
85 years next after the commission of the offense.

86 Prosecution for a violation for which a penalty is provided for by § 55.1-1989 shall commence within  
87 three years next after the commission of the offense.

88 Prosecution of illegal sales or purchases of wild birds, wild animals and freshwater fish under § 29.1-553

89 shall commence within three years after commission of the offense.

90 Prosecution of violations under Title 58.1 for offenses involving false or fraudulent statements, documents  
91 or returns, or for the offense of willfully attempting in any manner to evade or defeat any tax or the payment  
92 thereof, or for the offense of willfully failing to pay any tax, or willfully failing to make any return at the time  
93 or times required by law or regulations shall commence within three years next after the commission of the  
94 offense, unless a longer period is otherwise prescribed.

95 Prosecution of violations of subsection A or B of § 3.2-6570 shall commence within five years of the  
96 commission of the offense, except violations regarding agricultural animals shall commence within one year  
97 of the commission of the offense.

98 A prosecution for a misdemeanor violation of § 18.2-386.1 ~~or 18.2-386.2~~ shall be commenced within five  
99 years of the commission of the offense or within one year of the date the victim discovers the offense or, by  
100 the exercise of due diligence, reasonably should have discovered the offense, whichever is later.

101 *A prosecution for a misdemeanor violation of § 18.2-386.2 shall be commenced within five years of the*  
102 *commission of the offense or within three years of the date the victim discovers the offense, or, by the exercise*  
103 *of due diligence, reasonably should have discovered the offense, whichever is later.*

104 A prosecution for any violation of the Campaign Finance Disclosure Act, Chapter 9.3 (§ 24.2-945 et seq.)  
105 of Title 24.2, shall commence within one year of the discovery of the offense but in no case more than three  
106 years after the date of the commission of the offense.

107 A prosecution of a crime that is punishable as a misdemeanor pursuant to the Virginia Computer Crimes  
108 Act (§ 18.2-152.1 et seq.) or pursuant to § 18.2-186.3 for identity theft shall be commenced before the earlier  
109 of (i) five years after the commission of the last act in the course of conduct constituting a violation of the  
110 article or (ii) one year after the existence of the illegal act and the identity of the offender are discovered by  
111 the Commonwealth, by the owner, or by anyone else who is damaged by such violation.

112 A prosecution of a misdemeanor under § 18.2-64.2, 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-67.5, or  
113 18.2-370.6 or clause (ii) of § 18.2-371 where the victim is a minor at the time of the offense shall be  
114 commenced no later than one year after the victim reaches majority, unless the alleged offender of such  
115 offense was an adult and more than three years older than the victim at the time of the offense, in which  
116 instance such prosecution shall be commenced no later than five years after the victim reaches majority.

117 A prosecution for a violation of § 18.2-260.1 shall be commenced within three years of the commission of

118 the offense.

119 Nothing in this section shall be construed to apply to any person fleeing from justice or concealing  
120 himself within or without the Commonwealth to avoid arrest or be construed to limit the time within which  
121 any prosecution may be commenced for desertion of a spouse or child or for neglect or refusal or failure to  
122 provide for the support and maintenance of a spouse or child.

123 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**  
124 **commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary**  
125 **appropriation is \_\_\_\_\_ for periods of imprisonment in state adult correctional facilities; therefore,**  
126 **Chapter 2 of the Acts of Assembly of 2024, Special Session I, requires the Virginia Criminal Sentencing**  
127 **Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of**  
128 **Virginia, the estimated amount of the necessary appropriation is \_\_\_\_\_ for periods of commitment to**  
129 **the custody of the Department of Juvenile Justice.**