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HOUSE BILL NO. 926

Offered January 10, 2024

Prefiled January 9, 2024

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

Patrons—Shin, Bennett-Parker, Callsen, Clark, Cohen and Laufer

Referred to Committee for Courts of Justice

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 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 person who is (i) totally nude, ~~or~~; (ii) in a state of undress so as to expose the genitals, pubic area, buttocks, or female breast; ~~or~~ (iii) in a state of undress so as not to expose the genitals, pubic area, buttocks, or female breast but such videographic or still image is sexual or sensual in nature 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 ~~or~~ 4 felony. For purposes of this subsection, "another person" includes a person whose image was used in creating, adapting, or modifying a videographic or still image 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.

B. 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.

C. 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.

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

§ 19.2-8. Limitation of prosecutions.

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

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

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

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

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 et seq.) of Chapter 3.1 of Title 62.1 that involves the discharge, dumping or emission of any toxic substance as defined in § 32.1-239 shall be commenced within three years next after the commission of the offense.

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

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

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

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

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

66 Prosecution of illegal sales or purchases of wild birds, wild animals and freshwater fish under
67 § 29.1-553 shall commence within three years after commission of the offense.

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

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

76 A prosecution for a violation of § 18.2-386.1 *or* 18.2-386.2 shall be commenced within ~~five~~ 10 years
77 of the ~~commission of~~ *date the victim discovers* the offense.

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

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

87 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
88 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
89 commenced no later than one year after the victim reaches majority, unless the alleged offender of such
90 offense was an adult and more than three years older than the victim at the time of the offense, in
91 which instance such prosecution shall be commenced no later than five years after the victim reaches
92 majority.

93 A prosecution for a violation of § 18.2-260.1 shall be commenced within three years of the
94 commission of the offense.

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

99 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
100 **commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the**
101 **necessary appropriation is \$1,607,459 for periods of imprisonment in state adult correctional**
102 **facilities and cannot be determined for periods of commitment to the custody of the Department of**
103 **Juvenile Justice.**