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H.613

Introduced by Representative Burrows of West Windsor

Referred to Committee on

Date:

Subject: Crimes; lewd and indecent conduct; disclosure of a sexually explicit  
depiction without consent

Statement of purpose of bill as introduced: This bill proposes to establish a  
private civil right action if a person creates or discloses a digitized depiction of  
another person in sexually explicit material without that person’s consent.

An act relating to disclosure of a sexually explicit depiction without consent

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 13 V.S.A. § 2607 is added to read:

§ 2607. DISCLOSURE OF A SEXUALLY EXPLICIT DEPICTION

WITHOUT CONSENT; CIVIL ACTION

(a) As used in this section:

(1) “Depicted person” means a person who appears, as a result of  
digitization, to be giving a performance they did not actually perform or to be  
performing in a performance that was actually performed by the depicted  
person but was subsequently altered to be in violation of this section.

1           (2) “Digitization” means to realistically depict the nude body or intimate  
2           areas of another human being as the nude body or intimate areas of the  
3           depicted person, computer-generated nude body or intimate areas as the nude  
4           body or intimate areas of the depicted person, or the depicted person engaging  
5           in sexual conduct in which the depicted person did not engage.

6           (3) “Disclose” has the same meaning as in section 2606 of this title.

7           (4) “Intimate areas” has the same meaning as in section 2606 of this  
8           title.

9           (5) “Nude” has the same meaning as in section 2606 of this title.

10          (6) “Sexual conduct” has the same meaning as in section 2821 of this  
11          title.

12          (7) “Sexually explicit material” means any portion of an audiovisual  
13          work that shows the depicted person in the nude or showing intimate areas or  
14          engaged in sexual conduct.

15          (b) No person shall create or disclose a sexually explicit material related to  
16          a depicted person when the person knows or reasonably should have known  
17          the depicted person in that material did not consent to its creation or disclosure.  
18          A depicted person shall have a civil right of action against a person who  
19          creates or discloses the sexually explicit material in violation of this section.

20          (c) It shall not be a defense to an action under this section that there is a  
21          disclaimer in the sexually explicit material that communicates that the

1 inclusion of the depicted person in the sexually explicit material was  
2 unauthorized or that the depicted person did not participate in the creation or  
3 development of the material.

4 (d)(1) A depicted person may only consent to the creation or disclosure of  
5 sexually explicit material by knowingly and voluntarily signing an agreement  
6 written in plain language that includes a general description of the sexually  
7 explicit material and the audiovisual work in which it will be incorporated.

8 (2) A depicted person may rescind consent by delivering written notice  
9 within three business days from the date consent was given to the person in  
10 whose favor consent was made, unless one of the following requirements is  
11 satisfied:

12 (A) the depicted person is given at least three business days to review  
13 the terms of the agreement before signing it; or

14 (B) if the depicted person is represented, the attorney, talent agent, or  
15 personal manager authorized to represent the depicted person provides  
16 additional written approval of the signed agreement.

17 (e) A person is not liable under this section if:

18 (1) the person discloses the sexually explicit material in the course of  
19 reporting unlawful activity; exercising the person's law enforcement duties; or  
20 hearings, trials, or other legal proceedings; or

1           (2) the sexually explicit material is a matter of legitimate public  
2           concern; a work of political or newsworthy value or similar work; or  
3           commentary, criticism, or disclosure that is otherwise protected by the  
4           constitution of Vermont or the United States, provided that sexually explicit  
5           material shall not be considered of newsworthy value solely because the  
6           depicted person is a public figure.

7           (f) In any action commenced pursuant to this section, the court, in its  
8           discretion, may award injunctive relief, punitive damages, compensatory  
9           damages, and reasonable court costs and attorney's fees.

10          (g) A cause of action or special proceeding under this section shall be  
11          commenced the later of either:

12           (1) three years after the dissemination of sexually explicit material; or

13           (2) one year from the date a person discovers, or reasonably should have  
14          discovered, the dissemination of such sexually explicit material.

15          (h) Nothing in this section shall be read to require a prior criminal  
16          complaint, prosecution, or conviction to establish the elements of the cause of  
17          action provided for in this section.

18          (i) The provisions of this section, including the remedies, are in addition to,  
19          and shall not supersede, any other rights or remedies available in law or equity.

20          (j) Nothing in this section shall be construed to limit, or to enlarge, the  
21          protections that 47 U.S.C. § 230 confers on an interactive computer service for

1 content provided by another information content provider, as such terms are  
2 defined in 47 U.S.C. § 230.

3 Sec. 2. EFFECTIVE DATE

4 This act shall take effect on July 1, 2024.