

West's Code of Georgia Annotated

Title 16. Crimes and Offenses (Refs & Annos)

Chapter 11. Offenses Against Public Order and Safety (Refs & Annos)

Article 3. Invasions of Privacy

Part 3. Invasion of Privacy

Ga. Code Ann., § 16-11-90

§ 16-11-90. Transmission of photography or video  
depicting nudity or sexually explicit conduct of an adult

Effective: August 3, 2020

Currentness

(a) As used in this Code section, the term:

(1) “Harassment” means engaging in conduct directed at a depicted person that is intended to cause substantial emotional harm to the depicted person.

(2) “Nudity” means:

(A) The showing of the human male or female genitals, pubic area, or buttocks without any covering or with less than a full opaque covering;

(B) The showing of the female breasts without any covering or with less than a full opaque covering; or

(C) The depiction of covered male genitals in a discernibly turgid state.

(3) “Sexually explicit conduct” shall have the same meaning as set forth in Code Section 16-12-100.

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

(1) Electronically transmits or posts, in one or more transmissions or posts, a photograph or video which depicts nudity or sexually explicit conduct of an adult, including a falsely created videographic or still image, when the transmission or post is harassment or causes financial loss to the depicted person and serves no legitimate purpose to the depicted person; or

(2) Causes the electronic transmission or posting, in one or more transmissions or posts, of a photograph or video which depicts nudity or sexually explicit conduct of an adult, including a falsely created videographic or still image, when the

transmission or post is harassment or causes financial loss to the depicted person and serves no legitimate purpose to the depicted person.

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

(c) Any person who violates this Code section shall be guilty of a misdemeanor of a high and aggravated nature; provided, however, that upon a second or subsequent violation of this Code section, he or she shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment of not less than one nor more than five years, a fine of not more than \$100,000.00, or both.

(d) A person shall be subject to prosecution in this state pursuant to Code Section 17-2-1 for any conduct made unlawful by this Code section which the person engages in while:

(1) Either within or outside of this state if, by such conduct, the person commits a violation of this Code section which involves an individual who resides in this state; or

(2) Within this state if, by such conduct, the person commits a violation of this Code section which involves an individual who resides within or outside this state.

(e) The provisions of subsection (b) of this Code section shall not apply to:

(1) The activities of law enforcement and prosecution agencies in the investigation and prosecution of criminal offenses;

(2) Legitimate medical, scientific, or educational activities;

(3) Any person who transmits or posts a photograph or video depicting only himself or herself engaged in nudity or sexually explicit conduct;

(4) The transmission or posting of a photograph or video that was originally made for commercial purposes;

(5) Any person who transmits or posts a photograph or video depicting a person voluntarily engaged in nudity or sexually explicit conduct in a public setting; or

(6) A transmission that is made pursuant to or in anticipation of a civil action.

(f) There shall be a rebuttable presumption that an information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet, for content provided by another person, does not know the content of an electronic transmission or post.

(g) Any violation of this Code section shall constitute a separate offense and shall not merge with any other crimes set forth in this title.

**Credits**

Laws 2014, Act 519, § 1, eff. July 1, 2014; Laws 2015, Act 9, § 16, eff. March 13, 2015; Laws 2020, Act 550, § 1, eff. Aug. 3, 2020.

Ga. Code Ann., § 16-11-90, GA ST § 16-11-90

The statutes and Constitution are current through laws passed at the 2020 legislative sessions. Some statute sections may be more current, see credits for details. The statutes are subject to changes by the Georgia Code Commission.

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