



2022 South Dakota Legislature

Senate Bill 120

SENATE JUDICIARY ENGROSSED

Introduced by: **Senator** Castleberry

1 **An Act to include intentionally manipulated images or recordings in the crime of**
 2 **invasion of privacy by recording.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1. That § 22-21-4 be AMENDED:**

5 **22-21-4.** No person may:

6 (1) Use any device to photograph or visually record ~~any~~;

7 (a) Any other person without clothing or under or through the clothing, or with
 8 another person depicted in a sexual ~~manner~~ act, for the purpose of viewing
 9 the body of, or the undergarments worn by, that other person, ~~without~~;

10 (b) ~~Without~~ the consent or knowledge of that other person, ~~with~~; and

11 (c) With the intent to self-gratify, to harass, or embarrass and invade the
 12 privacy of that other person, under circumstances in which the other person
 13 has a reasonable expectation of privacy; ~~or~~

14 (2) Use, disclose, or disseminate, by any means, any recording or photograph in
 15 violation of subdivision (1), in order to self-gratify, to harass, or to embarrass and
 16 invade the privacy of that other person; ~~or~~ or

17 (3) Knowingly and intentionally disseminate or sell any image or recording of another
 18 person:

19 (a) That has been intentionally manipulated to create a realistic but false image
 20 or recording that would cause a reasonable person to mistakenly believe
 21 that the image or recording is authentic;

22 (b) That depicts the person as totally nude; in a state of undress to expose the
 23 genitals, pubic area, buttocks, or female breast; or with another person in
 24 a sexual act;

25 (c) Without the consent or knowledge of the person whose image is depicted;
 26 and

1 (d) With the intent to self-gratify, to harass, or embarrass and invade the
2 privacy of the person whose image is depicted.

3 A violation of this section is a Class 1 misdemeanor. However, a violation of this
4 section is a Class 6 felony if the victim is seventeen years of age or younger and the
5 perpetrator is at least twenty-one years of age at the time the photograph or recording is
6 made.