

House Bill 39

By: Representatives Dickerson of the 113th, Hugley of the 136th, Stephenson of the 90th, Dawkins-Haigler of the 91st, Smith of the 125th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated,
2 relating to offenses against public order, so as to define certain terms; to provide that a
3 person commits defamation when he or she causes an unknowing person wrongfully to be
4 identified as the person in an obscene depiction; to provide for penalties; to repeal conflicting
5 laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 2 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to
9 offenses against public order, is amended by adding a new Code section to read as follows:

10 "16-11-40.1.

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

12 (1) 'Nudity' means a state of undress so as to expose the human male or female genitals,
13 pubic area, or buttocks, with or without a translucent covering, or the showing of the
14 female breasts, with or without a translucent covering, of any portion thereof below the
15 top of the nipple.

16 (2) 'Obscene depiction' means a visual depiction of an individual displaying nudity or
17 sexual conduct.

18 (3) 'Sexual conduct' means actual or simulated acts of masturbation, homosexuality,
19 sexual intercourse, or physical contact in an act of apparent sexual stimulation or
20 gratification with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such
21 person is female, breasts.

22 (b) A person commits the offense of defamation if such person intentionally causes an
23 unknowing person wrongfully to be identified as the person in an obscene depiction in such
24 a manner that a reasonable person would conclude that the image depicted was that of the
25 person so wrongfully identified. Such identification shall include, without limitation, a

26 person's name, address, telephone number, or e-mail address. Such identification shall also
27 include the electronic imposing of the facial image of a person onto an obscene depiction.
28 (c) Any person convicted of violating subsection (b) of this Code section shall be guilty
29 of a misdemeanor and shall be punished by a fine of not more than \$1,000.00 or by
30 imprisonment for not more than one year, or both."

31 **SECTION 2.**

32 All laws and parts of laws in conflict with this Act are repealed.