

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 COMMITTEE SUBSTITUTE  
4 FOR ENGROSSED  
5 HOUSE BILL 3024

By: Jordan of the House

and

Holt of the Senate

7  
8 COMMITTEE SUBSTITUTE

9 An Act relating to online impersonation; providing  
10 short title; defining terms; establishing cause of  
11 action for online impersonation for certain purposes;  
12 providing exception; authorizing request for certain  
13 injunctive relief; authorizing award of certain  
14 damages; authorizing award of certain fees and costs;  
15 construing provisions; making remedies cumulative;  
16 providing for noncodification; providing for  
17 codification; and providing an effective date.

18 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

19 SECTION 1. NEW LAW A new section of law not to be  
20 codified in the Oklahoma Statutes reads as follows:

21 This act shall be known and may be cited as the "Catfishing  
22 Liability Act of 2016."

23 SECTION 2. NEW LAW A new section of law to be codified  
24 in the Oklahoma Statutes as Section 1450 of Title 12, unless there  
is created a duplication in numbering, reads as follows:

A. As used in this section:

1           1. "Photograph" means any photograph or photographic  
2 reproduction, still or moving, or any videotape or live television  
3 transmission of any person, such that the person is readily  
4 identifiable. A person shall be deemed to be readily identifiable  
5 from a photograph when one who views the photograph with the naked  
6 eye can reasonably determine that the person depicted in the  
7 photograph is the same person who is complaining of its unauthorized  
8 use, or the person on whose behalf a complaint is being made; and

9           2. "Social media" means forms of electronic communication  
10 through which users create online communities to share information,  
11 ideas, personal messages and other content.

12           B. Any person who knowingly uses another's name, voice,  
13 signature, photograph or likeness through social media to create a  
14 false identity without such person's consent, or in the case of a  
15 minor the consent of his or her parent or legal guardian, for the  
16 purpose of harming, intimidating, threatening or defrauding such  
17 person, shall be liable for online impersonation and liable for any  
18 damages sustained by the person or persons injured as a result  
19 thereof; provided, however, there shall be no liability for any  
20 online impersonation for which the sole purpose is satire or parody.

21           C. At the time of filing a petition for an action pursuant to  
22 this section, the plaintiff may request an automatic injunction  
23 preventing the continued use of the plaintiff's name, voice,  
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1 signature, photograph or likeness. The plaintiff may be awarded  
2 damages as provided in subsection D of this section.

3 D. Actual damages shall include, but not be limited to, funds  
4 spent related to counseling, identity theft or libel. Any profits  
5 from the unauthorized use of such person's likeness that are  
6 attributable to the use shall be considered in the computation of  
7 actual damages. In establishing commercialization damages, the  
8 injured party or parties are required to present proof only of the  
9 gross revenue attributable to such use. Punitive damages of no less  
10 than Five Hundred Dollars (\$500.00) per individual may be awarded to  
11 the injured party or parties. The prevailing party in any action  
12 under this section shall be entitled to attorney fees and costs.

13 E. This section shall not apply to law enforcement agencies or  
14 their employees acting within the scope of their employment  
15 investigating Internet crimes. Nothing in this section shall be  
16 construed to impose liability on an interactive computer service, as  
17 defined in 47 U.S.C. 230(f), for content provided by another person.

18 F. The remedies provided for in this section are cumulative and  
19 shall be in addition to any others provided for by law.

20 SECTION 3. This act shall become effective November 1, 2016.

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