
ENGROSSED SUBSTITUTE HOUSE BILL 2160

State of Washington

64th Legislature

2015 Regular Session

By House Judiciary (originally sponsored by Representatives Wylie, Orwall, Klippert, and Buys)

READ FIRST TIME 02/20/15.

1 AN ACT Relating to the distribution of intimate images; adding a
2 new section to chapter 4.24 RCW; and prescribing penalties.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 4.24 RCW
5 to read as follows:

6 (1) A person distributes an intimate image of another person when
7 that person intentionally and without consent distributes, transmits,
8 or otherwise makes available an intimate image or images of that
9 other person that was:

10 (a) Obtained under circumstances in which a reasonable person
11 would know or understand that the image was to remain private; or

12 (b) Knowingly obtained by that person without authorization or by
13 exceeding authorized access from the other person's property,
14 accounts, messages, files, or resources.

15 (2) Any person who distributes an intimate image of another
16 person as described in subsection (1) of this section and at the time
17 of such distribution knows or reasonably should know that disclosure
18 would cause harm to the depicted person shall be liable to that other
19 person for actual damages including, but not limited to, pain and
20 suffering, emotional distress, economic damages, and lost earnings,

1 reasonable attorneys' fees, and costs. The court may also, in its
2 discretion, award injunctive relief as it deems necessary.

3 (3) Factors that may be used to determine whether a reasonable
4 person would know or understand that the image was to remain private
5 include:

6 (a) The nature of the relationship between the parties;

7 (b) The circumstances under which the intimate image was taken;

8 (c) The circumstances under which the intimate image was
9 distributed; and

10 (d) Any other relevant factors.

11 (4) It shall be an affirmative defense to a violation of this
12 section that the defendant is a family member of a minor and did not
13 intend any harm or harassment in disclosing the images of the minor
14 to other family or friends of the defendant. This affirmative defense
15 shall not apply to matters defined under RCW 9.68A.011.

16 (5) As used in this section, "intimate image" means any
17 photograph, motion picture film, videotape, digital image, or any
18 other recording or transmission of another person who is identifiable
19 from the image itself or from information displayed with or otherwise
20 connected to the image, and that was taken in a private setting, is
21 not a matter of public concern, and depicts:

22 (a) Sexual activity, including sexual intercourse as defined in
23 RCW 9A.44.010 and masturbation; or

24 (b) A person's intimate body parts, whether nude or visible
25 through less than opaque clothing, including the genitals, pubic
26 area, anus, or postpubescent female nipple.

27 (6) In an action brought under this section, the court shall:

28 (a) Make it known to the plaintiff as early as possible in the
29 proceedings of the action that the plaintiff may use a confidential
30 identity in relation to the action;

31 (b) Allow a plaintiff to use a confidential identity in all
32 petitions, filings, and other documents presented to the court;

33 (c) Use the confidential identity in all of the court's
34 proceedings and records relating to the action, including any
35 appellate proceedings; and

36 (d) Maintain the records relating to the action in a manner that
37 protects the confidentiality of the plaintiff.

38 (7) Nothing in this act shall be construed to impose liability on
39 an interactive computer service, as defined in 47 U.S.C. 230(f)(2) as

1 it exists on the effective date of this section, for content provided
2 by another person.

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