

1 "Depicted individual" means an individual whose body is
2 shown in whole or in part in an intimate image. "Depicted
3 individual" includes a deceased individual.

4 "Digital replica" means a computer-generated, highly
5 realistic electronic representation that is readily identifiable
6 as the voice or visual likeness of an individual that is
7 embodied in a sound recording, image, audiovisual work, or
8 transmission in which the actual individual either did not
9 actually perform or appear, or the actual individual did perform
10 or appear, but the fundamental character of the performance or
11 appearance has been materially altered.

12 "Disclosure" means transfer, publication, or distribution
13 to another person. "Disclose" has a corresponding meaning.

14 "Harm" includes physical harm, economic harm, and emotional
15 distress whether or not accompanied by physical or economic
16 harm.

17 "Identifiable" means recognizable by a person other than
18 the depicted individual:

- 19 (1) From an intimate image itself; or
20 (2) From an intimate image and identifying characteristic
21 displayed in connection with the intimate image.



1 "Identifying characteristic" means information that may be
2 used to identify a depicted individual.

3 "Individual" means a natural person.

4 "Intimate image" means any digital image, digital replica,
5 photograph, live or recorded video, or computer-generated image
6 or video that depicts a person in a state of undress; in the
7 nude as defined in section 712-1210; engaged in sexual conduct;
8 or committing acts of self-harm, self-mutilation, or other self-
9 injury that results in bodily injury.

10 "Person" means an individual; estate; business or nonprofit
11 entity; public corporation; government or governmental
12 subdivision, agency, or instrumentality; or other legal entity.

13 "Private" means:

14 (1) Created or obtained under circumstances in which a
15 depicted individual had a reasonable expectation of
16 privacy; or

17 (2) Made accessible through theft, bribery, extortion,
18 fraud, false pretenses, voyeurism, or exceeding
19 authorized access to an account, message, file,
20 device, resource, or property.



1 "Sexual conduct" has the same meaning as in section
2 712-1210.

3 § -3 Disclosure of intimate images; civil action. (a)

4 Except as otherwise provided in section -4, a depicted
5 individual who is identifiable and who suffers harm from a
6 person's intentional disclosure or threatened disclosure of a
7 private intimate image without the depicted individual's consent
8 has a cause of action against the person if the person knew or
9 reasonably should have known that the depicted individual had a
10 reasonable expectation that the intimate image would remain
11 private.

12 (b) The following conduct by a depicted individual shall
13 not establish by itself that the depicted individual consented
14 to the disclosure of the intimate image that is the subject of
15 an action under this chapter or that the depicted individual
16 lacked a reasonable expectation of privacy:

- 17 (1) Consent to creation of the image; or
- 18 (2) Previous consensual disclosure of the image.

19 (c) A depicted individual who does not consent to the
20 sexual conduct or uncovering of the part of the body depicted in
21 an intimate image of the individual shall retain a reasonable



1 expectation of privacy even if the image was created when the
2 individual was in a public place.

3 § -4 **Liability; exceptions.** (a) A person shall not be
4 liable under this chapter if the person proves that disclosure
5 of, or a threat to disclose, an intimate image was:

6 (1) Made in good faith as part of:

7 (A) Law enforcement activity;

8 (B) A legal proceeding; or

9 (C) Medical education or treatment;

10 (2) Made in good faith in the reporting or investigation
11 of:

12 (A) Unlawful conduct; or

13 (B) Unsolicited and unwelcome conduct;

14 (3) Related to a matter of public concern or public
15 interest; or

16 (4) Reasonably intended to assist the depicted individual.

17 (b) Subject to subsection (c), a defendant who is a
18 parent, legal guardian, or individual with legal custody of a
19 child shall not be liable under this chapter for a disclosure or
20 threatened disclosure of an intimate image of the child.



1 (c) If a defendant asserts an exception to liability under
2 subsection (b), the exception shall not apply if the plaintiff
3 proves the disclosure was:

4 (1) Prohibited by law other than as provided this chapter;
5 or

6 (2) Made for the purpose of sexual arousal, sexual
7 gratification, humiliation, degradation, or monetary
8 or commercial gain.

9 (d) Disclosure of, or a threat to disclose, an intimate
10 image shall not be a matter of public concern or public interest
11 solely because the depicted individual is a public figure.

12 (e) As used in this section:

13 "Child" means an unemancipated individual who is under
14 eighteen years of age.

15 "Parent" means a biological, foster, or adoptive parent, a
16 parent-in-law, a stepparent, a grandparent, or a grandparent-in-
17 law.

18 § -5 **Plaintiff's privacy.** In an action under this
19 chapter:

20 (1) The court may exclude or redact from all pleadings and
21 documents filed other identifying characteristics of



1 the plaintiff under applicable state law or procedural
2 rule;

3 (2) A plaintiff to whom paragraph (1) applies shall file
4 with the court and serve on the defendant a
5 confidential information form that includes the
6 excluded or redacted plaintiff's name and other
7 identifying characteristics; and

8 (3) The court may make further orders as necessary to
9 protect the identity and privacy of a plaintiff.

10 § -6 **Disclosure of intimate images; civil remedies.** (a)

11 In an action under this chapter, a prevailing plaintiff may
12 recover:

13 (1) The greater of:

14 (A) Economic and noneconomic damages proximately
15 caused by the defendant's disclosure or
16 threatened disclosure, including damages for
17 emotional distress whether or not accompanied by
18 other damages; or

19 (B) Statutory damages not to exceed \$10,000 against
20 each defendant found liable under this chapter
21 for all disclosures and threatened disclosures by



1 the defendant of which the plaintiff knew or
2 reasonably should have known when filing the
3 action or which became known during the pendency
4 of the action; provided that in determining the
5 amount of statutory damages under this
6 subparagraph, consideration shall be given to the
7 age of the parties at the time of the disclosure
8 or threatened disclosure, the number of
9 disclosures or threatened disclosures made by the
10 defendant, the breadth of the distribution of the
11 intimate image by the defendant, and other
12 exacerbating or mitigating factors;

13 (2) An amount equal to any monetary gain made by the
14 defendant from disclosure of the intimate image;

15 (3) An amount equal to any actual costs incurred by the
16 plaintiff in retrieving and requesting removal of
17 distributed intimate images; and

18 (4) Punitive damages as allowed under any state law other
19 than as provided in this chapter.

20 (b) In an action under this chapter, the court shall order
21 a non-prevailing defendant to:



1 (1) Cease and desist from further disclosing the intimate
2 image;

3 (2) Destruct, delete, or return the original and all
4 copies of the intimate image in the defendant's
5 possession, custody, or control to the prevailing
6 plaintiff; and

7 (3) Identify all persons to whom the defendant disclosed
8 the intimate image.

9 (c) In an action under this chapter, the court may award a
10 prevailing plaintiff:

11 (1) Reasonable attorneys' fees and costs; and

12 (2) Additional relief, including injunctive relief.

13 (d) This chapter shall not affect a right or remedy
14 available under any state law other than as provided in this
15 chapter.

16 § -7 Statute of limitations. (a) An action brought by
17 a depicted individual under section -3(a) for unauthorized
18 disclosure, where the depicted individual was an adult on the
19 date of disclosure, shall not be brought later than eight years
20 from the date the disclosure was discovered or should have been
21 discovered with the exercise of reasonable diligence.



1 (b) An action brought by a depicted individual under
2 section -3(a) for a threat to disclose, where the depicted
3 individual was an adult on the date of the threat to disclose,
4 shall not be brought later than eight years from the date of the
5 threat to disclose.

6 (c) Subject to section 657-1.8(a)(2), an action brought by
7 a depicted individual under section -3(a), where the depicted
8 individual was a minor on the date of the disclosure or threat
9 to disclose, shall not be brought later than:

10 (1) Thirty-two years after the eighteenth birthday of the
11 depicted individual; or

12 (2) Five years after the date the depicted individual
13 discovers or reasonably should have discovered that
14 psychological injury or illness occurring after the
15 depicted individual's eighteenth birthday was caused
16 by the unauthorized disclosure,

17 whichever occurs later.

18 § -8 **Deceased depicted individuals; rights.** (a) For a
19 depicted individual who is deceased, or upon the death of a
20 depicted individual, all rights of the depicted individual under



1 this chapter shall vest in the estate of the deceased depicted
2 individual.

3 (b) The rights vested in the estate pursuant to subsection
4 (a) may be exercised by the personal representative of the
5 estate in accordance with chapter 560.

6 (c) If no personal representative has been appointed, any
7 person authorized under chapter 560 to petition for appointment
8 of a personal representative may petition the court for
9 appointment for the limited purpose of exercising the rights
10 under this chapter.

11 § -9 **Construction.** (a) This chapter shall be construed
12 to be consistent with the Communications Decency Act of 1996,
13 title 47 United States Code section 230.

14 (b) This chapter shall not be construed to alter the law
15 on sovereign immunity.

16 § -10 **Uniformity of application and construction.** In
17 applying and construing this uniform act, consideration shall be
18 given to the need to promote uniformity of the law with respect
19 to its subject matter among states that enact it.

20 § -11 **Severability.** If any provision of this chapter or
21 the application thereof to any person or circumstance is held



1 invalid, the invalidity does not affect other provisions or
2 applications of the chapter that can be given effect without the
3 invalid provision or application, and to this end the provisions
4 of this chapter are severable."

5 SECTION 2. This Act does not affect rights and duties that
6 matured, penalties that were incurred, and proceedings that were
7 begun before its effective date.

8 SECTION 3. This Act shall take effect on January 1, 2077.



Report Title:

Unauthorized Disclosure of Intimate Images; Civil Remedies

Description:

Enacts the Uniform Civil Remedies for Unauthorized Disclosure of Intimate Images Act (Modified). Effective 1/1/2077. (SD2)

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