

Chapter 7.110 RCW
UNIFORM CIVIL REMEDIES FOR UNAUTHORIZED DISCLOSURE OF INTIMATE IMAGES
ACT

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RCW 7.110.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Consent" means affirmative, conscious, and voluntary authorization by an individual with legal capacity to give authorization.

(2) "Depicted individual" means an individual whose body is shown in whole or in part in an intimate image.

(3) "Disclosing" has the same meaning as provided in RCW 9A.86.010. "Disclosure" has the same meaning as "disclosing."

(4) "Identifiable" means recognizable by a person other than the depicted individual:

(a) From an intimate image itself; or

(b) From an intimate image and identifying characteristic displayed in connection with the intimate image.

(5) "Identifying characteristic" means information that may be used to identify a depicted individual.

(6) "Individual" means a human being.

(7) "Intimate image" has the same meaning as provided in RCW 9A.86.010.

(8) "Person" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency or instrumentality, or other legal entity. [2023 c 65 § 2.]

RCW 7.110.020 Civil cause of action. (1) For the purposes of this section:

(a) "Harm" includes physical harm, economic harm, and emotional distress whether or not accompanied by physical or economic harm.

(b) "Private" means:

(i) Created or obtained under circumstances in which a depicted individual had a reasonable expectation of privacy; or

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

(2) Except as otherwise provided in RCW 7.110.030, a depicted individual who is identifiable and who suffers harm from a person's intentional disclosure or threatened disclosure of an intimate image that was private without the depicted individual's consent has a cause

of action against the person if the person knew or acted with reckless disregard for whether:

- (a) The depicted individual did not consent to the disclosure;
- (b) The intimate image was private; and
- (c) The depicted individual was identifiable.

(3) The following conduct by a depicted individual does not establish by itself that the individual consented to the disclosure of the intimate image which is the subject of an action under this chapter or that the individual lacked a reasonable expectation of privacy:

- (a) Consent to creation of the image; or
- (b) Previous consensual disclosure of the image.

(4) A depicted individual who does not consent to the uncovering of the part of the body depicted in an intimate image of the individual retains a reasonable expectation of privacy even if the image was created when the individual was in a public place. [2023 c 65 § 3.]

RCW 7.110.030 Exceptions to liability. (1) For the purposes of this section:

(a) "Child" means an unemancipated individual who is less than 18 years of age.

(b) "Parent" has the same meaning as provided in RCW 26.26A.010.

(2) A person is not liable under this chapter if the person proves that disclosure of, or a threat to disclose, an intimate image was:

- (a) Made in good faith in:
 - (i) Law enforcement activities;
 - (ii) A legal proceeding; or
 - (iii) Medical education or treatment;
- (b) Made in good faith in the reporting or investigation of:
 - (i) Unlawful conduct; or
 - (ii) Unsolicited and unwelcome conduct;
- (c) Related to a matter of public concern or public interest; or
- (d) Reasonably intended to assist the depicted individual.

(3) Subject to subsection (4) of this section, a defendant who is a parent, legal guardian, or individual with legal custody of a child is not liable under this chapter for a disclosure or threatened disclosure of an intimate image, as defined in RCW 7.110.010(7), of the child.

(4) If a defendant asserts an exception to liability under subsection (3) of this section, the exception does not apply if the plaintiff proves the disclosure was:

(a) Prohibited by law other than this chapter; or

(b) Made for the purpose of sexual arousal, sexual gratification, humiliation, degradation, or monetary or commercial gain.

(5) Disclosure of, or a threat to disclose, an intimate image is not a matter of public concern or public interest solely because the depicted individual is a public figure. [2023 c 65 § 4.]

RCW 7.110.040 Plaintiff may use pseudonym. In an action under this chapter a plaintiff may proceed using a pseudonym in place of the true name of the plaintiff under applicable state law or procedural rule. [2023 c 65 § 5.]

RCW 7.110.050 Remedies. (1) In an action under this chapter, a prevailing plaintiff may recover:

(a) The greater of:

(i) Economic and noneconomic damages proximately caused by the defendant's disclosure or threatened disclosure, including damages for emotional distress whether or not accompanied by other damages; or

(ii) Statutory damages not to exceed \$10,000 against each defendant found liable under this chapter for all disclosures and threatened disclosures by the defendant of which the plaintiff knew or reasonably should have known when filing the action or which became known during the pendency of the action. In determining the amount of statutory damages under this subsection (1)(a)(ii), consideration must be given to the age of the parties at the time of the disclosure or threatened disclosure, the number of disclosures or threatened disclosures made by the defendant, the breadth of distribution of the image by the defendant, and other exacerbating or mitigating factors;

(b) An amount equal to any monetary gain made by the defendant from disclosure of the intimate image; and

(c) Punitive damages in an amount not to exceed three times the amount of damages under (a) of this subsection.

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

(a) Reasonable attorneys' fees and costs; and

(b) Additional relief, including injunctive relief.

(3) This chapter does not affect a right or remedy available under law of this state other than this chapter. [2023 c 65 § 6.]

RCW 7.110.060 Statute of limitations. (1) An action under RCW 7.110.020(2) for:

(a) An unauthorized disclosure may not be brought later than four years from the date the disclosure was discovered or should have been discovered with the exercise of reasonable diligence; and

(b) A threat to disclose may not be brought later than four years from the date of the threat to disclose.

(2) Except as otherwise provided in subsection (3) of this section, this section is subject to the tolling statutes of this state.

(3) In an action under RCW 7.110.020(2) by a depicted individual who was a minor on the date of the disclosure or threat to disclose, the time specified in subsection (1)(a) of this section does not begin to run until the depicted individual attains the age of majority. [2023 c 65 § 7.]

RCW 7.110.900 Short title. This chapter may be known and cited as the uniform civil remedies for unauthorized disclosure of intimate images act. [2023 c 65 § 1.]

RCW 7.110.901 Construction—Communications decency act of 1996. This chapter must be construed to be consistent with the communications decency act of 1996, 47 U.S.C. Sec. 230. [2023 c 65 § 8.]

RCW 7.110.902 Uniformity of application and construction. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it. [2023 c 65 § 9.]