

RCW 4.24.790 Electronic impersonation—Action for invasion of privacy. (1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Actual person" means a living individual.

(b) "Blog" means a website that is created primarily for the writer to maintain an online personal journal with reflections, comments, or hyperlinks provided by the writer.

(c) "Impersonates" or "impersonation" means using an actual person's name or likeness to create an impersonation that another person would reasonably believe or did reasonably believe was or is the actual person being impersonated.

(d) "Interactive computer service" means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the internet and such systems operated or services offered by libraries or educational institutions.

(e) "Online bulletin board" means a website that is designed specifically for internet users to post and respond to online classified advertisements that are viewable by other internet users.

(f) "Social networking website" means a website that allows a user to create an account or profile for the user for the purposes of, among other things, connecting the user's account or profile to other users' accounts or profiles. A blog is not a social networking website.

(2) A person may be liable in a civil action based on a claim of invasion of privacy when:

(a) The person impersonates another actual person on a social networking website or online bulletin board;

(b) The impersonation was intentional and without the actual person's consent;

(c) The person intended to deceive or mislead for the purpose of harassing, threatening, intimidating, humiliating, or defrauding another; and

(d) The impersonation proximately caused injury to the actual person. Injury may include injury to reputation or humiliation, injury to professional or financial standing, or physical harm.

(3) (a) The actual person who suffered injury by an impersonation in violation of this section may bring an action to recover actual damages, injunctive relief, and declaratory relief. The court may award actual damages, injunctive relief, and declaratory relief as necessary.

(b) The court may award the prevailing party costs and reasonable attorneys' fees.

(4) This section does not apply when the impersonation was:

(a) For a use set forth in RCW 63.60.070, including for matters of cultural, historical, political, religious, educational, newsworthy, or public interest including, but not limited to, use in works of art, commentary, satire, and parody;

(b) For a use that would violate chapter 63.60 RCW;

(c) Insignificant, de minimis, or incidental use; or

(d) Performed by a law enforcement agency as part of a lawful criminal investigation.

(5) A court of this state may exercise jurisdiction in a suit brought by a Washington resident or against a defendant who is a Washington resident. Jurisdiction over any person who is not a

Washington resident may be exercised in a manner consistent with the laws and Constitution of the state of Washington, including RCW 4.28.185, and the Constitution of the United States.

(6) (a) This section may not be construed to impose any liability on a social networking website, online bulletin board, internet service provider, interactive computer service, computer hardware or software provider, or website operator or administrator or its employees, unless the provider, operator, administrator, or employee is the person impersonating an actual person. Nothing in this section is intended to preclude other common law causes of action against these entities.

(b) This section may not be construed to limit any other civil cause of action available to a person under statute or common law or any criminal prosecution.

(7) For the purposes of this section, parental liability is limited pursuant to RCW 4.24.190. [2012 c 9 s 2.]

Finding—Intent—2012 c 9: "The legislature finds that although social networking websites and online bulletin boards provide valuable opportunities for networking, there are also opportunities for conduct that can cause harm to other persons. There are civil and criminal remedies for certain types of fraud, impersonation, and appropriation of a person's personality for commercial purposes. However, how these traditional legal remedies extend to wrongful impersonation over the internet to mislead, deceive, harass, threaten, or intimidate is relatively new and unclear. Courts have recognized the tort of invasion of privacy, and one of the four categories of an invasion of privacy claim is the misappropriation of another person's name or likeness. It is the intent of the legislature to specify that the tort of invasion of privacy may include the misappropriation of a person's name or likeness through social networking websites and online bulletin boards with the intent to mislead, deceive, harass, threaten, or intimidate." [2012 c 9 s 1.]