
Civil Rights & Judiciary Committee

HB 1335

Brief Description: Concerning the unauthorized publication of personal identifying information.

Sponsors: Representatives Hansen, Berry, Farivar, Taylor, Ramel, Simmons, Kloba, Bateman, Reed and Lekanoff.

Brief Summary of Bill

- Prohibits publication of an individual's personal identifying information without consent when the publication is made with intent or knowledge the information will be used to harm the individual, or reckless disregard for the risk of such harm, and the publication causes harm to the individual.
- Establishes a civil cause of action for violations.

Hearing Date: 1/31/23

Staff: John Burzynski (786-7133).

Background:

Doxing generally refers to the disclosure of another individual's personal information for the purpose of harming or harassing that individual.

Doxing is not specifically prohibited under Washington law. Depending on the specific circumstances, information disclosed, and additional facts the underlying conduct could qualify as a criminal offense (for example, harassment or stalking) or an actionable civil tort (for example, invasion of privacy or intentional infliction of emotional distress).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Summary of Bill:

Prohibition on Doxing.

No person may publish an individual's personal identifying information when:

- the publication is made without the express consent of the individual whose information is published;
- the publication is made with:
 - intent or knowledge that the personal identifying information will be used to harm the individual whose information is published; or
 - reckless disregard for the risk the personal identifying information will be used to harm the individual whose information is published; and
- the publication causes the individual whose information is published to suffer:
 - physical harm;
 - significant economic injury;
 - mental anguish;
 - fear of serious bodily injury or death for themselves or a close relation to themselves; or
 - a substantial life disruption.

Civil Action.

A person whose information is published in violation of this restriction may bring a civil action against: (1) the person who published the information; and (2) any person who knowingly benefits from participation in a venture they knew or should have known has engaged in a violation of these restrictions. An action may be brought in any county in which an element of the violation occurred or in which an individual whose information was published resides.

A prevailing claimant may recover compensatory damages, punitive damages, statutory damages of \$5,000 per violation, costs and reasonable attorneys' fees, injunctive relief, and other relief deemed appropriate by the court. Additionally, a court may issue a temporary restraining order, or temporary or permanent injunction, to prevent disclosure or continued disclosure of a party's personal identifying information.

Exceptions, Defenses, and Construction.

The foregoing restrictions are subject to exceptions for good-faith reporting of criminal activity to law enforcement and other information in connection with the activities of other government agencies, and providing information in connection with constitutionally protected forms of speech, assembly, and petition.

It is not a defense that the information at issue was voluntarily given to the publisher, previously publicly disclosed, or readily discoverable through research or investigation.

The act shall not be construed to conflict with 47 U.S.C. Sec. 230 or 42 U.S.C. Sec. 1983, or to prohibit constitutionally protected activities.

The act shall be liberally construed and applied to promote its purpose to deter doxing, protect

persons from doxing, and provide adequate remedies to victims of doxing.

Defined Terms.

Several terms are expressly defined.

"Doxing" means unauthorized publication of personal identifying information with intent or knowledge that the information will be used to harm the individual whose information is published, or with reckless disregard for the risk the information will be used to harm the individual whose information is published.

"Harm" means bodily injury, death, harassment, or stalking.

"Mental anguish" means emotional distress or emotional suffering as evidenced by anxiety, fear, torment, or apprehension that may or may not result in a physical manifestation of mental anguish or a mental health diagnosis. The mental anguish must be protracted and not merely trivial or transitory.

"Personal identifying information" means any information that can be used to distinguish or trace an individual's identity, including without limitation name, prior legal name, alias, mother's maiden name, or date or place of birth, in combination with any other information that is linked or linkable to an individual such as:

- social security number, home address, mailing address, phone number, email address, social media accounts, or biometric data;
- medical, financial, education, consumer, or employment information, data, or records;
- any other sensitive private information that is linked or linkable to a specific identifiable individual, such as gender identity, sexual orientation, or any sexually intimate visual depiction; or
- any information, including without limitation usernames and passwords, that enables access to a person's email accounts, social media accounts, electronic forum accounts, chat or instant message accounts, cloud storage accounts, banking or financial accounts, computer networks, computers or phones, teleconferencing services, video-teleconferencing services, or other digital meeting rooms.

"Publish" means to circulate, deliver, distribute, disseminate, post, transmit, or otherwise make available to another person, through any oral, written, visual, or electronic communication.

"Substantial life disruption" means that a person significantly modifies their actions, routines, employment, residence, appearance, name, or contact information to avoid or protect against an actor who has obtained or is using the person's personal identifying information, or because of the course of conduct of an actor who has obtained or is using the person's personal identifying information. Examples include, without limitation, changing a phone number, changing an electronic mail address, deleting personal electronic accounts, significantly decreasing use of the internet, moving from an established residence, changing daily routines, changing routes to and from work, changing employment or work schedule, or losing time from work or a job.

Additional terms are defined in the bill.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.