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**SUBSTITUTE HOUSE BILL 2160**

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**State of Washington 64th Legislature 2015 Regular Session**

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

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

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

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

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

(a) Entrusted to that person by the other person, and that person's distribution, transmission, or otherwise making available of the intimate image intentionally or recklessly causes emotional distress to the other person; or

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

(2) Any person who distributes an intimate image of another person as described in subsection (1) of this section shall be liable to that other person for up to ten thousand dollars or actual damages including, but not limited to, pain and suffering, emotional distress, economic damages, and lost earnings, whichever is greater, reasonable attorneys' fees, and costs. The court may also, in its discretion, award injunctive relief as it deems necessary.

(3) Factors that may be used to determine whether an intimate image was entrusted to a person include:

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

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

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

(d) Any other relevant factors.

(4) As used in this section:

(a) "Entrusted" means the image was obtained under circumstances where both parties should reasonably understand that the image was to remain private.

(b) "Intimate image" means any photograph, motion picture film, videotape, digital image, or any other recording or transmission that is taken in a private setting, is not a matter of public concern, and depicts:

(i) A person's intimate apparel;

(ii) A person's intimate body parts, whether nude or visible through less than opaque clothing; or

(iii) Touching of any person's intimate body parts done for the purpose of gratifying sexual desire.

(5) Nothing in this act shall be construed to impose liability on an interactive computer service, as defined in 47 U.S.C. 230(f)(2) as it exists on the effective date of this section, for content provided by another person.

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