

17 Civil cause of action for non-consensual disclosure of sexually  
18 explicit images.

19 1. A civil cause of action lies against a person who discloses,  
20 threatens to disclose an image of another person identifiable from the  
21 image itself or information displayed in connection with the image and  
22 whose intimate parts are exposed or is engaged in sexual conduct without  
23 that other person's consent, if the actor:

24 (a) obtained the image or images under circumstances in which a  
25 reasonable person would know or understand that the image was to remain  
26 private, including but not limited to images shared within the context  
27 of a confidential relationship that were then disclosed beyond such  
28 relationship; or

29 (b) knowingly obtained the image or images under false pretenses or  
30 without authorization or by exceeding authorized access to property,  
31 accounts, messages, files, devices, or resources.

32 2. The following affirmative defense shall apply if:

33 (a) The distributed material was created or distributed under an  
34 agreement by the person appearing in the material for its public use and  
35 distribution; or

36 (b) The distributed material constitutes a matter of public concern,  
37 lawful and common practices of law enforcement, criminal reporting,  
38 legal proceedings, medical treatment, or scientific or educational  
39 activities; or

40 (c) The distributed material was photographed, filmed, videotaped,  
41 recorded, or otherwise reproduced in a public place and under circum-  
42 stances in which the person depicted had no reasonable expectation of  
43 privacy.

44 3. In addition to other relief available at law, including an order by  
45 the court to destroy any image obtained or disclosed in violation of  
46 this section, and to preserve discoverable information, and preliminary  
47 and permanent injunctive relief, the actor shall be liable to the plain-  
48 tiff for:

49 (a) Actual damages, but not less than liquidated damages, to be  
50 computed at the rate of one thousand dollars per day for each day the  
51 image or images were viewable or each instance a threat to distribute  
52 was made or an image fraudulently obtained up to thirty days, or ten  
53 thousand dollars, whichever is higher; and

54 (b) Punitive damages; and

55 (c) Reasonable court costs and attorneys' fees

1 4. In an action brought under this section, all identifying informa-  
2 tion about the plaintiff may be redacted from pleadings and court  
3 filings and the plaintiff may proceed under pseudonym; the court shall  
4 inform the plaintiff of the option to proceed under pseudonym at the  
5 earliest possible point and shall maintain the records in a manner that  
6 protects the plaintiff's confidentiality.

7 5. The following definitions shall apply: (a) "Personal information"  
8 includes, but is not limited to, name or any part thereof, address or  
9 any part thereof, age, names of family members, marital status,  
10 relationship to defendant, race or ethnic background, employer, school,  
11 or URLs, social media account usernames, and screenshots related to the  
12 cause of action;

13 (b) "Actual damages" includes, but is not limited to, pain and suffer-  
14 ing, emotional distress, economic damages, and lost earnings.

15 6. A cause of action brought under this section may be brought no more  
16 than five years after the last disclosure or incident.

17 7. The actor's claim that the depicted person is a public figure shall  
18 not be sufficient to establish the affirmative defense that distribution  
19 constitutes a matter of public concern.

20 8. Nothing in this section shall be construed to require that a crimi-  
21 nal charge be brought or a criminal conviction be obtained as a condi-  
22 tion of bringing a civil cause of action or receiving a civil judgment  
23 pursuant to this section or be construed to require that any of the  
24 rules governing a criminal proceeding be applicable to any such civil  
25 action.