

HB 362 -- DISCLOSURE OF INTIMATE DIGITAL DEPICTIONS (Williams)

COMMITTEE OF ORIGIN: Standing Committee on Crime and Public Safety

Except as provided in the bill, an individual who is the subject of an "intimate digital depiction", as defined in the bill, that is disclosed without the consent of the individual and made by a person who knows or recklessly disregards that the individual has not consented can bring a civil action against the other person.

In the case of an individual who is a minor or otherwise in need of representation, a representative can assume the individual's rights as listed in the bill, but in no event can the defendant be named as such representative.

For the purposes of a civil action based on disclosure of an intimate digital depiction: an individual's "consent", as defined in the bill, to the intimate digital depiction's creation will not establish consent to its disclosure. Consent will be considered validly given only if the requirements listed in the bill are fulfilled.

This bill lists what an individual can recover in the event of a civil action based on disclosure of an intimate digital depiction, what the court can order as relief, and in what situations an individual may not bring an action for relief. A disclaimer stating that the intimate digital depiction was unauthorized or that the depicted individual, as defined in the bill, was not involved in the development of the material, is not a defense.

The bill establishes the offense of disclosure of an intimate digital depiction, which a person commits if the person discloses or threatens to disclose an intimate digital depiction: with the intent to harass, annoy, threaten, alarm, or cause harm to the depicted individual; or with the actual knowledge that, or reckless disregard for whether, such disclosure or threatened disclosure will cause harm to the depicted individual.

The bill lists the penalties associated with the offense of disclosure of an intimate digital depiction as well as whether certain defenses can be applied to the offense.

An interactive computer service, a provider of public mobile services or private mobile radio services, and a telecommunications network or broadband provider will not be held liable for the offense of disclosure of an intimate digital depiction.