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. 1. 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 it is distributed, transmitted, or otherwise made available with the intent to cause emotional distress and the other person actually suffers emotional distress as a result; 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 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.

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