



THE UNIFORM CIVIL REMEDIES FOR UNAUTHORIZED DISCLOSURE OF INTIMATE IMAGES ACT

- A Summary -

The disclosure of private, sexually explicit images without consent and for no legitimate purpose, sometimes referred to as “revenge porn,” causes immediate, devastating, and, in many cases, irreversible harm. A vengeful ex-partner, opportunistic hacker, or other person can upload an explicit image of a victim to a website where tens of thousands of people can view it and thousands of other websites can share it. In a matter of days, that image can dominate the first several pages of search engine results for the victim’s name, as well as be sent to the victim’s family, employers, co-workers, and peers. Additionally, victims of revenge porn often find their personal safety is at heightened risk after an unauthorized disclosure is made. Incidents of revenge porn and non-consensual pornography are increasing nationally. States have adopted criminal laws to address this issue; however, most states do not have civil laws providing the victim a civil remedy, and the existing laws differ considerably in their definitions, scope, effectiveness, and remedies. This lack of uniformity creates confusion and inefficiency, leaving victims without a clear path to justice. In response to this issue, the Uniform Law Commission promulgated the Uniform Civil Remedies for the Unauthorized Disclosure of Intimate Images Act (UCRUDIIA) in 2018.

Section 3 of the UCRUDIIA creates a cause of action for the unauthorized disclosure of intimate images. The basic elements of this cause of action are:

- (1) an intentional disclosure or threat to disclose;
- (2) a private;
- (3) intimate image;
- (4) of an identifiable individual;
- (5) without the consent of the depicted individual;
- (6) by a person who has the requisite awareness that:
 - (a) the depicted individual did not consent to the disclosure,
 - (b) the intimate image was private, and
 - (c) the depicted individual was identifiable; and
- (7) the disclosure harms the depicted individual.

The act leaves the question of whether a cause of action under this act survives the death of the depicted individual for the states to decide.

Section 4 provides for exceptions to liability for disclosures made in good faith for public purposes, including law enforcement, legal proceedings, medical education or treatment and other proper needs. Section 4 further provides that a discloser who is a child’s parent, legal guardian, or individual with legal custody of the child, is not liable under the Act for the disclosure or threatened disclosure of an intimate image, unless the disclosure was prohibited by



law other than this act or made for the purpose of sexual arousal, sexual gratification, humiliation, degradation, or monetary or commercial gain.

Section 5 protects the privacy of a plaintiff. This section allows the plaintiff to use a pseudonym and otherwise protect his or her identity. Section 5 further permits the court to exclude or redact other identifying characteristics of the plaintiff from all pleadings and documents filed in the action. To exercise this right, a plaintiff must file with the court a confidential information form that includes the plaintiff's real name and other information and serve a copy of this form on a defendant.

Section 6 provides various remedies for victims. A prevailing plaintiff may recover actual damages, statutory damages, and, where appropriate, punitive damages, and attorney's fees. A plaintiff may also recover an amount equal to the gain made by the respondent from disclosure of the intimate image if applicable. Section 6 does not affect a right or remedy available under other law.

Section 7 addresses statutes of limitations. Under this section, an action for the unauthorized disclosure of intimate images must be brought no later than four years from the date the unauthorized disclosure was discovered or should have been discovered with the exercise of reasonable diligence. Actions brought under the act for a threat to disclose an intimate image must be brought no later than four years from the date of the threat to disclose. The act also incorporates relevant state tolling statutes. For actions brought by individuals who are minors, this section provides states with an optional provision allowing the statute of limitations to begin running on the date the depicted individual attains the age of majority. This section is drafted to allow states to choose a different period of limitation if desired.

Section 8 excludes interactive computer service providers from coverage under the act to the extent they are already protected under federal law. This section does not alter state law on sovereign or governmental immunity.

For further information about the UCRUDIIA, please contact ULC Legislative Counsel Kaitlin Wolff at (312) 450-6615 or kwolff@uniformlaws.org.