

ONE HUNDRED SIXTH LEGISLATURE - FIRST SESSION - 2019
COMMITTEE STATEMENT
LB680

Hearing Date: Friday February 22, 2019
Committee On: Judiciary
Introducer: DeBoer
One Liner: Adopt the Uniform Civil Remedies for Unauthorized Disclosure of Intimate Images Act

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:
Aye: 7 Senators Brandt, Chambers, DeBoer, Lathrop, Morfeld, Slama, Wayne
Nay:
Absent: 1 Senator Pansing Brooks
Present Not Voting:

Oral Testimony:

Proponents:

Senator Wendy DeBoer
Harvey Perlman
John Lindsay

Representing:

Introducer
Nebraska Uniform Law Commission
Nebraska Association of Trial Attorneys

Opponents:

Gregory Lauby

Representing:

self

Neutral:

Representing:

Summary of purpose and/or changes:

LB680 would adopt the Uniform Civil Remedies for Unauthorized Disclosure of Intimate Images Act.

Section 2 would provide definitions for "consent," "depicted individual," "disclosure," "identifiable," "identifying characteristic," "individual," "intimate image," and "person."

Section 3 would define "harm" and "private" and would create a cause of action against a person that intentionally discloses or threatens to disclose a private intimate image without the depicted individual's consent if the person knew or acted with reckless disregard for whether the depicted individual was identifiable and did not consent and that the intimate image was private.

Section 4 would provide exceptions to liability under the Act. A person would not be liable if the disclosure was made in good faith for law enforcement, legal, medical, reporting, or public interest purposes. A parent or guardian would not be liable for disclosing intimate images of their child not involving sexual contact.

Section 5 would allow a plaintiff to file an action under a pseudonym and redact identifiable information from public court pleadings and documents.

Section 6 would allow a prevailing plaintiff to recover attorney's fees and costs and obtain injunctive relief. This section would also allow a plaintiff to recover economic and noneconomic damages and an amount equal to any monetary gain

made by the defendant from the disclosure. This section would also allow a plaintiff to recover statutory damages of up to \$10,000.

Section 7 would provide a four year statute of limitations from the disclosure or threatened disclosure. For minors, the statute would not begin to run until they reach the age of majority.

Section 8 would provide that the Act maintains immunity for service providers under federal law or government entities under sovereign immunity.

Section 9 would provide that the Act be construed consistently with other states that adopt it.

Section 10 would authorize a plaintiff to use a pseudonym and require the court to use the pseudonym in all court proceedings and records.

Section 11 is a severability clause.

Explanation of amendments:

AM1537 replaces the original bill.

The amendment removes Sections 5 and 10 from the original bill. Plaintiffs would be permitted to use existing procedures for proceeding with the action using a pseudonym.

Section 5 of AM1537 replaces the description of "statutory damages" in Section 6 of the original bill with a new description of presumed damages that bear a reasonable relationship to actual damages.

Section 7 of the amendment replaces Section 8 of the original bill. This section clarifies the liability protection for service providers.

Steve Lathrop, Chairperson