

By: Senator(s) Wiggins, Thompson

To: Judiciary, Division A

SENATE BILL NO. 2391

1 AN ACT TO ENACT THE UNIFORM CIVIL REMEDIES FOR UNAUTHORIZED  
2 DISCLOSURE OF INTIMATE IMAGES ACT; TO DEFINE TERMS; TO CREATE A  
3 CIVIL CAUSE OF ACTION; TO PROVIDE THAT A DEPICTED INDIVIDUAL  
4 SUFFERS HARM FROM A PERSON'S INTENTIONAL DISCLOSURE OR THREATENED  
5 DISCLOSURE OF AN INTIMATE IMAGE HAS A CAUSE OF ACTION AGAINST THE  
6 PERSON IF THE DEPICTED INDIVIDUAL DID NOT CONSENT TO THE  
7 DISCLOSURE, THE INTIMATE IMAGE WAS PRIVATE, AND THE DEPICTED  
8 INDIVIDUAL WAS IDENTIFIABLE; TO PROVIDE CERTAIN EXCEPTIONS TO  
9 CIVIL LIABILITY; TO PROVIDE CERTAIN PRIVACY PROTECTIONS FOR A  
10 PLAINTIFF FILING A CAUSE OF ACTION AUTHORIZED BY THIS ACT; TO  
11 PROVIDE THAT A PLAINTIFF SHALL BE ENTITLED TO (1) THE GREATER OF  
12 ECONOMIC AND NONECONOMIC DAMAGES OR STATUTORY DAMAGES NOT TO  
13 EXCEED A CERTAIN SUM, (2) AN AMOUNT EQUAL TO ANY MONETARY GAIN  
14 MADE BY THE DEFENDANT FROM DISCLOSURE OF THE INTIMATE IMAGE, AND  
15 (3) PUNITIVE DAMAGES UNDER SECTION 11-1-65; TO AUTHORIZE THE AWARD  
16 OF ATTORNEY'S FEES TO A PREVAILING PLAINTIFF UNDER THIS ACT; TO  
17 PRESCRIBE A PERIOD OF LIMITATION FOR THE CAUSE OF ACTION  
18 AUTHORIZED IN THIS ACT; TO PROVIDE THAT THIS ACT MUST BE CONSTRUED  
19 CONSISTENTLY WITH CERTAIN FEDERAL LAW; TO PROVIDE THAT IN APPLYING  
20 AND CONSTRUING THIS UNIFORM ACT, CONSIDERATION MUST BE GIVEN TO  
21 THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT TO ITS  
22 SUBJECT MATTER AMONG STATES THAT ENACT IT; AND FOR RELATED  
23 PURPOSES.

24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

25 **SECTION 1. Short title.** This act shall be known as and may  
26 be cited as the "Uniform Civil Remedies for Unauthorized  
27 Disclosure of Intimate Images Act."



28           **SECTION 2. Definitions.** As used in this act, the following  
29 words shall have the meaning herein ascribed:

30           (a) "Consent" means affirmative, conscious, and  
31 voluntary authorization by an individual with legal capacity to  
32 give authorization.

33           (b) "Depicted individual" means an individual whose  
34 body is shown in whole or in part in an intimate image.

35           (c) "Disclosure" means transfer, publication or  
36 distribution to another person. "Disclose" has a corresponding  
37 meaning.

38           (d) "Identifiable" means recognizable by a person other  
39 than the depicted individual:

40                   (i) From an intimate image itself; or

41                   (ii) From an intimate image and identifying  
42 characteristic displayed in connection with the intimate image.

43           (e) "Identifying characteristic" means information that  
44 may be used to identify a depicted individual.

45           (f) "Individual" means a human being.

46           (g) "Intimate image" means a photograph, film, video  
47 recording, or other similar medium that shows:

48                   (i) The uncovered genitals, pubic area, anus, or  
49 female post-pubescent nipple of a depicted individual; or

50                   (ii) A depicted individual engaging in or being  
51 subjected to sexual conduct.



52 (h) "Person" means an individual, estate, business or  
53 nonprofit entity, public corporation, government or governmental  
54 subdivision, agency, or instrumentality, or other legal entity.

55 (i) "Sexual conduct" includes:

56 (i) Masturbation;

57 (ii) Genital, anal, or oral sex;

58 (iii) Sexual penetration of, or with, an object;

59 (iv) Bestiality; or

60 (v) The transfer of semen onto a depicted

61 individual.

62 **SECTION 3. Civil action.** (1) In this section:

63 (a) "Harm" includes physical harm, economic harm and  
64 emotional distress whether or not accompanied by physical or  
65 economic harm.

66 (b) "Private" means:

67 (i) Created or obtained under circumstances in  
68 which a depicted individual had a reasonable expectation of  
69 privacy; or

70 (ii) Made accessible through computer fraud,  
71 extortion, fraud, false pretenses, false personation, identity  
72 theft, larceny, voyeurism or any other related crime.

73 (2) Except as otherwise provided in Section 4 of this act, a  
74 depicted individual who is identifiable and who suffers harm from  
75 a person's intentional disclosure or threatened disclosure of an  
76 intimate image that was private without the depicted individual's



77 consent has a cause of action against the person if the person  
78 knew or acted with reckless disregard for whether:

79 (a) The depicted individual did not consent to the  
80 disclosure;

81 (b) The intimate image was private; and

82 (c) The depicted individual was identifiable.

83 (3) The following conduct by a depicted individual does not  
84 establish by itself that the individual consented to the  
85 disclosure of the intimate image which is the subject of an action  
86 under this act or that the individual lacked a reasonable  
87 expectation of privacy:

88 (a) Consent to creation of the image; or

89 (b) Previous consensual disclosure of the image.

90 (4) A depicted individual who does not consent to the sexual  
91 conduct or uncovering of the part of the body depicted in an  
92 intimate image of the individual retains a reasonable expectation  
93 of privacy even if the image was created when the individual was  
94 in a public place.

95 **SECTION 4. Exceptions to liability.** (1) In this section:

96 (a) "Child" means an unemancipated individual who is  
97 less than eighteen (18) years of age.

98 (b) "Parent" means an individual recognized as a parent  
99 under law of this state other than this act.



100 (2) A person is not liable under this [act] if the person  
101 proves that disclosure of, or a threat to disclose, an intimate  
102 image was:

103 (a) Made in good faith in:

104 (i) Law enforcement;

105 (ii) A legal proceeding; or

106 (iii) Medical education or treatment;

107 (b) Made in good faith in the reporting or  
108 investigation of:

109 (i) Unlawful conduct; or

110 (ii) Unsolicited and unwelcome conduct;

111 (c) Related to a matter of public concern or public  
112 interest; or

113 (d) Reasonably intended to assist the depicted  
114 individual.

115 (3) Subject to subsection (4) of this section, a defendant  
116 who is a parent or legal guardian of a child is not liable under  
117 this act for a disclosure or threatened disclosure of an intimate  
118 image, as defined in Section 2(g)(i) of this act, of the child.

119 (4) If a defendant asserts an exception to liability under  
120 subsection (3) of this section, the exception does not apply if  
121 the plaintiff proves the disclosure was:

122 (a) Prohibited by law other than this act; or



123 (b) Made for the purpose of sexual arousal, sexual  
124 gratification, humiliation, degradation, or monetary or commercial  
125 gain.

126 (5) Disclosure of, or a threat to disclose, an intimate  
127 image is not a matter of public concern or public interest solely  
128 because the depicted individual is a public figure.

129 **SECTION 5. Plaintiff's privacy.** In an action under this  
130 act:

131 (a) The court may exclude or redact from all pleadings  
132 and documents filed in the action the plaintiff's name and other  
133 identifying characteristics of the plaintiff;

134 (b) A plaintiff to whom paragraph (a) of this section  
135 applies shall file with the court and serve on the defendant a  
136 confidential information form that includes the excluded or  
137 redacted plaintiff's name and other identifying characteristics;  
138 and

139 (c) the court may make further orders as necessary to  
140 protect the identity and privacy of a plaintiff and may promulgate  
141 the necessary rules to effectuate the purposes of this section.

142 **SECTION 6. Remedies.** (1) In an action under this act, a  
143 prevailing plaintiff may recover:

144 (a) The greater of:

145 (i) Economic and noneconomic damages proximately  
146 caused by the defendant's disclosure or threatened disclosure,



147 including damages for emotional distress whether or not

148 accompanied by other damages; or

149 (ii) Statutory damages not to exceed Ten Thousand  
150 Dollars (\$10,000.00) against each defendant found liable under  
151 this act for all disclosures and threatened disclosures by the  
152 defendant of which the plaintiff knew or reasonably should have  
153 known when filing the action or which became known during the  
154 pendency of the action. In determining the amount of statutory  
155 damages under this subparagraph (ii), consideration must be given  
156 to the age of the parties at the time of the disclosure or  
157 threatened disclosure, the number of disclosures or threatened  
158 disclosures made by the defendant, the breadth of distribution of  
159 the image by the defendant, and other exacerbating or mitigating  
160 factors;

161 (b) An amount equal to any monetary gain made by the  
162 defendant from disclosure of the intimate image; and

163 (c) Punitive damages under Section 11-1-65.

164 (2) In an action under this act, the court may award a  
165 prevailing plaintiff:

166 (a) Reasonable attorney's fees; and

167 (b) Additional relief, including injunctive relief.

168 (3) This act does not affect a right or remedy available  
169 under law of this state other than this act.

170 **SECTION 7. Statute of limitations.** (1) An action under  
171 Section 3(2) of this act for:



172 (a) An unauthorized disclosure may not be brought later  
173 than four (4) years from the date the disclosure was discovered or  
174 should have been discovered with the exercise of reasonable  
175 diligence; and

176 (b) A threat to disclose may not be brought later than  
177 four (4) years from the date of the threat to disclose.

178 (2) This section is subject to any tolling provisions  
179 provided by law of this state.

180 **SECTION 8. Construction.** This act must be construed to be  
181 consistent with the Communications Decency Act of 1996, 47 USC  
182 Section 230.

183 **SECTION 9. Uniformity of application and construction.** In  
184 applying and construing this uniform act, consideration must be  
185 given to the need to promote uniformity of the law with respect to  
186 its subject matter among states that enact it.

187 **SECTION 10.** This act shall take effect and be in force from  
188 and after July 1, 2024.

