

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE HOUSE BILL 1652

62nd Legislature
2012 Regular Session

Passed by the House January 23, 2012
Yeas 95 Nays 0

Speaker of the House of Representatives

Passed by the Senate February 28, 2012
Yeas 47 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE HOUSE BILL 1652** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SECOND SUBSTITUTE HOUSE BILL 1652

Passed Legislature - 2012 Regular Session

State of Washington

62nd Legislature

2012 Regular Session

By House Judiciary (originally sponsored by Representatives Frockt, Kenney, Reykdal, Rolfes, Probst, Goodman, Maxwell, McCoy, Jacks, Jinkins, Ryu, Kagi, Ladenburg, Stanford, Hasegawa, Fitzgibbon, Blake, Billig, Roberts, Clibborn, Ormsby, Moscoso, Hudgins, and Liias)

READ FIRST TIME 01/16/12.

1 AN ACT Relating to electronic impersonation; adding a new section
2 to chapter 4.24 RCW; and creating a new section.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The legislature finds that although social
5 networking web sites and online bulletin boards provide valuable
6 opportunities for networking, there are also opportunities for conduct
7 that can cause harm to other persons. There are civil and criminal
8 remedies for certain types of fraud, impersonation, and appropriation
9 of a person's personality for commercial purposes. However, how these
10 traditional legal remedies extend to wrongful impersonation over the
11 internet to mislead, deceive, harass, threaten, or intimidate is
12 relatively new and unclear. Courts have recognized the tort of
13 invasion of privacy, and one of the four categories of an invasion of
14 privacy claim is the misappropriation of another person's name or
15 likeness. It is the intent of the legislature to specify that the tort
16 of invasion of privacy may include the misappropriation of a person's
17 name or likeness through social networking web sites and online
18 bulletin boards with the intent to mislead, deceive, harass, threaten,
19 or intimidate.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 4.24 RCW
2 to read as follows:

3 (1) The definitions in this subsection apply throughout this
4 section unless the context clearly requires otherwise.

5 (a) "Actual person" means a living individual.

6 (b) "Blog" means a web site that is created primarily for the
7 writer to maintain an online personal journal with reflections,
8 comments, or hyperlinks provided by the writer.

9 (c) "Impersonates" or "impersonation" means using an actual
10 person's name or likeness to create an impersonation that another
11 person would reasonably believe or did reasonably believe was or is the
12 actual person being impersonated.

13 (d) "Interactive computer service" means any information service,
14 system, or access software provider that provides or enables computer
15 access by multiple users to a computer server, including specifically
16 a service or system that provides access to the internet and such
17 systems operated or services offered by libraries or educational
18 institutions.

19 (e) "Online bulletin board" means a web site that is designed
20 specifically for internet users to post and respond to online
21 classified advertisements that are viewable by other internet users.

22 (f) "Social networking web site" means a web site that allows a
23 user to create an account or profile for the user for the purposes of,
24 among other things, connecting the user's account or profile to other
25 users' accounts or profiles. A blog is not a social networking web
26 site.

27 (2) A person may be liable in a civil action based on a claim of
28 invasion of privacy when:

29 (a) The person impersonates another actual person on a social
30 networking web site or online bulletin board;

31 (b) The impersonation was intentional and without the actual
32 person's consent;

33 (c) The person intended to deceive or mislead for the purpose of
34 harassing, threatening, intimidating, humiliating, or defrauding
35 another; and

36 (d) The impersonation proximately caused injury to the actual
37 person. Injury may include injury to reputation or humiliation, injury
38 to professional or financial standing, or physical harm.

1 (3)(a) The actual person who suffered injury by an impersonation in
2 violation of this section may bring an action to recover actual
3 damages, injunctive relief, and declaratory relief. The court may
4 award actual damages, injunctive relief, and declaratory relief as
5 necessary.

6 (b) The court may award the prevailing party costs and reasonable
7 attorneys' fees.

8 (4) This section does not apply when the impersonation was:

9 (a) For a use set forth in RCW 63.60.070, including for matters of
10 cultural, historical, political, religious, educational, newsworthy, or
11 public interest including, but not limited to, use in works of art,
12 commentary, satire, and parody;

13 (b) For a use that would violate chapter 63.60 RCW;

14 (c) Insignificant, de minimis, or incidental use; or

15 (d) Performed by a law enforcement agency as part of a lawful
16 criminal investigation.

17 (5) A court of this state may exercise jurisdiction in a suit
18 brought by a Washington resident or against a defendant who is a
19 Washington resident. Jurisdiction over any person who is not a
20 Washington resident may be exercised in a manner consistent with the
21 laws and Constitution of the state of Washington, including RCW
22 4.28.185, and the Constitution of the United States.

23 (6)(a) This section may not be construed to impose any liability on
24 a social networking web site, online bulletin board, internet service
25 provider, interactive computer service, computer hardware or software
26 provider, or web site operator or administrator or its employees,
27 unless the provider, operator, administrator, or employee is the person
28 impersonating an actual person. Nothing in this section is intended to
29 preclude other common law causes of action against these entities.

30 (b) This section may not be construed to limit any other civil
31 cause of action available to a person under statute or common law or
32 any criminal prosecution.

33 (7) For the purposes of this section, parental liability is limited
34 pursuant to RCW 4.24.190.

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