



Province of Alberta

# **PROTECTING VICTIMS OF NON-CONSENSUAL DISTRIBUTION OF INTIMATE IMAGES ACT**

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# PROTECTING VICTIMS OF NON-CONSENSUAL DISTRIBUTION OF INTIMATE IMAGES ACT

## Chapter P-26.9

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HER MAJESTY, by and with the advice and consent of the  
Legislative Assembly of Alberta, enacts as follows:

#### **Definitions**

**1** In this Act,

- (a) “child” means a person who is under the age of 18 years;
- (b) “intimate image” means a visual recording of a person made by any means, including a photograph, film or video recording,
  - (i) in which the person depicted in the image
    - (A) is nude, or is exposing his or her genital organs or anal region or her breasts, or

- (B) is engaged in explicit sexual activity,
- (ii) which was recorded in circumstances that gave rise to a reasonable expectation of privacy in respect of that image, and
- (iii) if the image has been distributed, in which the person depicted in the image retained a reasonable expectation of privacy at the time it was distributed;
- (c) “parent” when used in reference to a child, includes any individual who has lawful custody of, or a lawful right of access to, the child.

### **Interpretation**

**2** For the purpose of this Act, a person distributes an intimate image if that person knowingly publishes, transmits, sells, advertises or otherwise makes the image available to a person other than the person depicted in the image.

### **Distribution of intimate images without consent**

**3** A person who distributes an intimate image of another person knowing that the person depicted in the image did not consent to the distribution, or is reckless as to whether or not that person consented to the distribution, commits a tort against that other person.

### **Action without proof of damage**

**4** An action for the distribution of an intimate image without consent may be brought without proof of damage.

### **Expectation of privacy**

**5** In an action for the distribution of an intimate image without consent, a person depicted in the image does not lose the expectation of privacy in respect of the image if that person

- (a) consented to another person recording the images, or
- (b) provided the image to another person,

in circumstances where that other person knew or ought reasonably to have known that a person depicted in the image did not consent to the further distribution of the image.

**Defence**

**6** It is a defence to an action for the distribution of an intimate image without consent if the distribution of the intimate image is in the public interest and does not extend beyond what is in the public interest.

**Remedies**

**7(1)** In an action for the distribution of an intimate image without consent, the court may

- (a) award damages to the plaintiff, including general, special, aggravated and punitive damages,
- (b) order the defendant to account to the plaintiff for any profits that have accrued to the defendant as a result of the distribution of the intimate image without consent,
- (c) issue an injunction on such terms and with such conditions that the court determines appropriate in the circumstances, and
- (d) make any other order that the court considered just and reasonable in the circumstances.

**(2)** In awarding damages in an action for the distribution of an intimate image without consent, the court must not have regard to any order made under subsection (1)(b).

**Limit of liability**

**8** Where a defendant in an action for the distribution of an intimate image without consent is a child, a parent of the defendant shall not be jointly and severally liable for any damages awarded to the plaintiff unless the court is satisfied that the parent directly participated in the distribution of the intimate image without consent.

**Damages**

**9** In awarding damages in an action for the distribution of an intimate image without consent, the court may make an order prohibiting the publication of the name of any party to the action or any information likely to identify a party if it considers the making of the order to be in the interests of justice.

**Application of Act**

**10** Nothing in this Act

- (a) affects any proceedings against any person for a penalty or forfeiture under any Act of the Legislature in respect of any wrongful act, or
- (b) renders enforceable any agreement for indemnity that would not have been enforceable if this Act had not been passed.

**11** and **12** *(These sections amend other Acts; the amendments have been incorporated into those Acts.)*

**Coming into force**

**13** This Act comes into force 3 months after the day on which it receives Royal Assent.

*(NOTE: This Act received Royal Assent May 4, 2017.)*





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