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## Judiciary Committee

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### HB 2160

**Title:** An act relating to the distribution of intimate images.

**Brief Description:** Concerning the distribution of intimate images.

**Sponsors:** Representatives Wylie, Orwall and Klippert.

<p style="text-align: center;"><b>Brief Summary of Bill</b></p> <ul style="list-style-type: none"><li>• Provides for civil liability against any person who intentionally and without consent distributes an intimate image of another person under certain circumstances.</li></ul>
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**Hearing Date:**

**Staff:** Brent Campbell (786-7152).

**Background:**

Liability currently exists for some harms that result from disclosure of embarrassing or emotionally distressful material.

The tort of invasion of privacy is codified in statute and is based on the common law tort of public disclosure of private facts. Under this statute, someone invades another's privacy when he or she gives publicity to a matter concerning the private life of another. A person who invades another's privacy is subject to liability to the other person if the matter publicized is of a kind that would be highly offensive to a reasonable person and is not of legitimate concern to the public.

The tort of intentional infliction of emotional distress, also known as the tort of outrage, exists when a defendant engages in extreme and outrageous conduct to intentionally or recklessly inflict emotional distress on a plaintiff and the plaintiff actually suffers severe emotional distress as a result.

**Summary of Bill:**

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

A person is liable for distributing an intimate image of another if he or she intentionally and without consent distributes an intimate image that:

- was entrusted to him or her by the other person, and the image was distributed with the intent to cause emotional distress and the other person actually suffers emotional distress as a result; or
- was knowingly obtained by the person without authorization or by exceeding authorized access from the other person's property, accounts, messages, files, or resources.

"Entrusted" means that the image was obtained under circumstances where both parties should reasonably understand that the image was to remain private. Several factors are listed that may be used to determine whether an intimate image was entrusted.

An "intimate image" is any image or recording that is taken in a private setting, is not a matter of public concern, and depicts:

- a person's intimate apparel;
- a person's intimate body parts, whether nude or visible through less than opaque clothing; or
- touching of any person's intimate body parts done for the purpose of gratifying sexual desire.

Anyone who distributes an intimate image of another is liable for \$10,000 or actual damages, whichever is greater, reasonable attorneys' fees, and costs. The court also may award injunctive relief as it deems necessary.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.