

ESHB 1335 - S COMM AMD

By Committee on Law & Justice

ADOPTED 04/06/2023

1 Strike everything after the enacting clause and insert the
2 following:

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

5 (1) No person may publish an individual's personal identifying
6 information when:

7 (a) The publication is made without the express consent of the
8 individual whose information is published;

9 (b) The publication is made with: (i) Intent or knowledge that
10 the personal identifying information will be used to harm the
11 individual whose information is published; or (ii) reckless disregard
12 for the risk the personal identifying information will be used to
13 harm the individual whose information is published; and

14 (c) The publication causes the individual whose information is
15 published to suffer: (i) Physical injury; (ii) significant economic
16 injury; (iii) mental anguish; (iv) fear of serious bodily injury or
17 death for themselves or a close relation to themselves; or (v) a
18 substantial life disruption.

19 (2) A person does not violate this section by:

20 (a) Providing personal identifying information with the reporting
21 of criminal activity, which the person making the report reasonably
22 believes occurred, to an employee of a law enforcement agency,
23 intelligence agency, or other government agency in the United States;
24 or in connection with any existing investigative, protective, or
25 intelligence activity of any law enforcement agency, intelligence
26 agency, or other government agency in the United States. This
27 subsection (2)(a) only applies if the person providing the personal
28 identifying information reasonably believes it to be accurate and
29 provides the information in good faith and not for a malicious,
30 fraudulent, or unlawful purpose;

31 (b) Providing personal identifying information in connection with
32 an exercise of the right of freedom of speech or of the press, the

1 right to assemble or petition, or the right of association,
2 guaranteed by the United States Constitution or Washington state
3 Constitution;

4 (c) Providing personal identifying information to, or in the
5 course of acting as or on behalf of, "news media" as defined in RCW
6 5.68.010(5);

7 (d) Providing personal identifying information to a requestor in
8 response to a request under the public records act, chapter 42.56
9 RCW;

10 (e) Providing personal identifying information when required to
11 do so by any federal, state, or local law or regulation, or court
12 rule or court order. This subsection (2)(e) only applies if the
13 person providing the personal identifying information reasonably
14 believes it to be accurate and provides the information in good faith
15 and not for a malicious, fraudulent, or unlawful purpose;

16 (f) Providing personal identifying information in connection with
17 a lawful requirement for a court filing or recording, including but
18 not limited to recording judgments or filing claims of liens;

19 (g) Providing personal identifying information as permitted under
20 the federal Gramm-Leach-Bliley act and consumer financial protection
21 bureau Regulation P, 12 C.F.R. Part 1016, consistent with privacy
22 policy disclosures provided pursuant to such regulation;

23 (h) Providing personal identifying information in compliance with
24 the fair credit reporting act (84 Stat. 1127; 15 U.S.C. Sec. 1681 et
25 seq.) or fair debt collection practices act (91 Stat. 874; 15 U.S.C.
26 Sec. 1692 et seq.);

27 (i) Providing personal identifying information in a consumer
28 alert or public notice arising from a regulatory, civil, or criminal
29 investigation, complaint, or enforcement action. This subsection
30 (2)(i) only applies to publications made by government agencies;

31 (j) Providing personal identifying information within or to a
32 government agency, corporation, company, partnership, labor union, or
33 another legal entity, or to any employees or agents thereof, but only
34 if the following requirements are satisfied:

35 (i) The personal identifying information is provided for a
36 legitimate and lawful purpose, including without limitation the
37 reporting of criminal or fraudulent activity, facilitating a lawful
38 commercial transaction, or furthering an existing business
39 relationship;

1 (ii) The personal identifying information is provided through a
2 private channel of communication, and is not provided to the public;

3 (iii) The person providing the personal identifying information:

4 (A) Reasonably believes it to be accurate; or

5 (B) Has reasonable suspicion to believe it is being used
6 fraudulently; and

7 (iv) The person providing the personal identifying information
8 provides it in good faith, and not for a malicious or fraudulent
9 purpose; or

10 (k) Providing personal identifying information on behalf of a
11 state agency, the health benefit exchange, a tribal nation, a
12 contracted service provider of a state agency or the health benefit
13 exchange, or the lead organization or a data vendor of the all-payer
14 health care claims database under chapter 43.371 RCW, if the
15 information was provided in a manner legally permitted under federal
16 or state law or regulation.

17 (3) It is not a defense to a violation of this section that the
18 personal identifying information at issue was voluntarily given to
19 the publisher, has been previously publicly disclosed, or is readily
20 discoverable through research or investigation.

21 (4) Nothing in this section shall be construed in any manner to:

22 (a) Conflict with 47 U.S.C. Sec. 230;

23 (b) Conflict with 42 U.S.C. Sec. 1983; or

24 (c) Prohibit any activity protected under the Constitution of the
25 United States or the Washington state Constitution.

26 (5)(a) An individual whose personal identifying information is
27 published in violation of this section may bring a civil action
28 against: (i) The person or persons who published the personal
29 identifying information; and (ii) any person who knowingly benefits,
30 financially or by receiving anything of value, from participation in
31 a venture that the person knew or should have known has engaged in an
32 act in violation of this section.

33 (b) A prevailing claimant who brings a civil action pursuant to
34 this section is entitled to recover any or all of the following
35 remedies upon request: (i) Compensatory damages; (ii) punitive
36 damages; (iii) statutory damages of \$5,000 per violation; (iv) costs
37 and reasonable attorneys' fees; (v) injunctive relief; and (vi) any
38 other relief deemed appropriate by the court.

39 (c) When an action is brought under this section, a court may, on
40 its own motion or upon the motion of any party, issue a temporary

1 restraining order, or a temporary or permanent injunction, to
2 restrain and prevent the disclosure or continued disclosure of a
3 party's personal identifying information.

4 (d) A civil action may be brought in any county in which an
5 element of any violation of this section occurred, or in which an
6 individual resides who is the subject of the personal identifying
7 information published in violation of this section.

8 (6) The definitions in this subsection apply throughout this
9 section and section 2 of this act unless the context clearly requires
10 otherwise.

11 (a) "Close relation" means a current or former spouse or domestic
12 partner, parent, child, sibling, stepchild, stepparent, grandparent,
13 any person who regularly resides in the household or who within the
14 prior six months regularly resided in the household, or any person
15 with a significant personal or professional relationship.

16 (b) "Course of conduct" means a pattern of conduct composed of
17 two or more acts, evidencing a continuity of purpose.

18 (c) "Doxing" means unauthorized publication of personal
19 identifying information with intent or knowledge that the information
20 will be used to harm the individual whose information is published,
21 or with reckless disregard for the risk the information will be used
22 to harm the individual whose information is published.

23 (d) "Electronic communication" means the transmission of
24 information by wire, radio, optical cable, electromagnetic, or other
25 similar means. "Electronic communication" includes, but is not
26 limited to, email, internet-based communications, pager service, and
27 electronic text messaging.

28 (e) "Harassment" has the same meaning as in RCW 9A.46.020,
29 9A.90.120, and 9.61.230.

30 (f) "Harm" means bodily injury, death, harassment, or stalking.

31 (g) "Mental anguish" means emotional distress or emotional
32 suffering as evidenced by anxiety, fear, torment, or apprehension
33 that may or may not result in a physical manifestation of mental
34 anguish or a mental health diagnosis. The mental anguish must be
35 protracted and not merely trivial or transitory.

36 (h) "Personal identifying information" means any information that
37 can be used to distinguish or trace an individual's identity,
38 including without limitation name, prior legal name, alias, mother's
39 maiden name, or date or place of birth, in combination with any other
40 information that is linked or linkable to an individual such as:

1 (i) Social security number, home address, mailing address, phone
2 number, email address, social media accounts, or biometric data;

3 (ii) Medical, financial, education, consumer, or employment
4 information, data, or records;

5 (iii) Any other sensitive private information that is linked or
6 linkable to a specific identifiable individual, such as gender
7 identity, sexual orientation, or any sexually intimate visual
8 depiction; or

9 (iv) Any information, including without limitation usernames and
10 passwords, that enables access to a person's email accounts, social
11 media accounts, electronic forum accounts, chat or instant message
12 accounts, cloud storage accounts, banking or financial accounts,
13 computer networks, computers or phones, teleconferencing services,
14 video-teleconferencing services, or other digital meeting rooms.

15 (i) "Publish" means to circulate, deliver, distribute,
16 disseminate, post, transmit, or otherwise make available to another
17 person, through any oral, written, visual, or electronic
18 communication.

19 (j) "Regularly resides" means residing in the household with some
20 permanency or regular frequency in the resident's living arrangement.

21 (k) "Stalking" has the same meaning as in RCW 9A.46.110.

22 (l) "Substantial life disruption" means that a person
23 significantly modifies their actions, routines, employment,
24 residence, appearance, name, or contact information to avoid or
25 protect against an actor who has obtained or is using the person's
26 personal identifying information, or because of the course of conduct
27 of an actor who has obtained or is using the person's personal
28 identifying information. Examples include, without limitation,
29 changing a phone number, changing an electronic mail address,
30 deleting personal electronic accounts, significantly decreasing use
31 of the internet, moving from an established residence, changing daily
32 routines, changing routes to and from work, changing employment or
33 work schedule, or losing time from work or a job.

34 (7) The legislature does not intend this section to allow, and
35 this section shall not allow, actions to be brought for
36 constitutionally protected activity.

37 NEW SECTION. **Sec. 2.** This act shall be liberally construed and
38 applied to promote its underlying purpose to deter doxing, protect

1 persons from doxing, and provide adequate remedies to victims of
2 doxing.

3 NEW SECTION. **Sec. 3.** If any provision of this act or its
4 application to any person or circumstance is held invalid, the
5 remainder of the act or the application of the provision to other
6 persons or circumstances is not affected."

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7 On page 1, line 2 of the title, after "information;" strike the
8 remainder of the title and insert "adding a new section to chapter
9 4.24 RCW; creating a new section; and prescribing penalties."

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