

SENATE BILL No. 372

By Committee on Federal and State Affairs

1-22

1 AN ACT concerning civil actions; enacting the civil liability for doxing
2 act; prohibiting intentionally publishing another person's personally
3 identifiable information without the consent of the person whose
4 information is published under certain circumstances; authorizing a
5 civil action for violations of the act to recover damages and obtain
6 injunctive relief.

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8 *Be it enacted by the Legislature of the State of Kansas:*

9 Section 1. (a) This section shall be known and may be cited as the civil
10 liability for doxing act.

11 (b) Except as provided in subsection (c), a person shall not engage in
12 the act of doxing. A person engages in the act of doxing by intentionally
13 publishing another person's personally identifiable information without the
14 consent of the person whose information is published and:

15 (1) The information is published with the intent that it be used to
16 harm or harass the person whose information is published and with
17 knowledge that, or with reckless disregard as to whether, the person whose
18 information is published would be reasonably likely to suffer death, great
19 bodily harm, bodily harm or stalking;

20 (2) the publishing of the information causes the person whose
21 information is published to suffer:

22 (A) Death, great bodily harm, bodily harm or stalking;

23 (B) significant economic injury or emotional distress or to fear great
24 bodily harm or death of the person or a family or household member of the
25 person; or

26 (C) a substantial life disruption; and

27 (3) the person whose information is published is identifiable from the
28 published personally identifiable information itself.

29 (c) It is not a violation of this section for an individual to:

30 (1) Provide a person's personally identifiable information in
31 connection with the reporting of criminal activity to an employee of a law
32 enforcement agency or in connection with any lawfully authorized
33 investigative, protective or intelligence activity of any law enforcement
34 agency or of an intelligence agency of the United States and the person
35 making the report reasonably believes that the alleged criminal activity
36 occurred or the existing investigative, protective or intelligence activity is

1 legitimate;

2 (2) disseminate a person's personally identifiable information for the
3 purpose of, or in connection with, the reporting of conduct reasonably
4 believed to be unlawful; or

5 (3) provide a person's personally identifiable information to the press
6 or in connection with activity protected under the constitution of the
7 United States or the constitution of the state of Kansas pertaining to
8 speech, press, assembly, protest and petition.

9 (d) Nothing in this section shall be construed in any manner to:

10 (1) Conflict with section 230 of title II of the communications act of
11 1934, 47 U.S.C. 230;

12 (2) conflict with 42 U.S.C. 1983; or

13 (3) prohibit any activity protected under the constitution of the United
14 States or the constitution of the state of Kansas.

15 (e) (1) A person who is aggrieved by a violation of this section may
16 bring a civil action against:

17 (A) The individual who violated this section; or

18 (B) any individual or entity that directs one or more persons to violate
19 this section and that knowingly benefits, financially or by receiving
20 anything of value, from participation in a venture that the individual or
21 entity knew involved a violation of this section.

22 (2) A person who is aggrieved by a violation of this section may
23 recover damages and any other appropriate relief, including reasonable
24 attorney fees.

25 (3) An individual who is found liable for a violation of this section
26 shall be jointly and severally liable with each other individual, if any, who
27 is found liable for a violation of this section for damages arising from the
28 same violation of this section.

29 (4) If a judgment is entered in favor of a defendant in an action
30 brought pursuant to this section, the court may award reasonable costs and
31 attorney fees to the defendant for defending any claim brought by the
32 plaintiff that the court finds was frivolous and brought in bad faith.

33 (5) (A) The court in which an action is brought pursuant to this
34 section, on the motion of a party, may issue a temporary restraining order,
35 emergency order of protection or preliminary or permanent injunction to
36 restrain and prevent the disclosure or continued disclosure of a person's
37 personally identifiable information.

38 (B) On the motion of a party, and following a full evidentiary hearing,
39 the court may issue an order pursuant to this section to prevent the
40 publishing of a person's personally identifiable information if the court
41 finds by clear and convincing evidence each of the following on the
42 record:

43 (i) The individual to be enjoined published personally identifiable

1 information in violation of this section;

2 (ii) continued or further publishing of the personally identifiable
3 information poses a present and ongoing risk of death, great bodily harm,
4 bodily harm or stalking to another individual; and

5 (iii) the individual to be enjoined has no lawful purpose for continued
6 or further publishing of the personally identifiable information.

7 (C) Any order for injunctive relief granted pursuant to this section
8 shall contain the following:

9 (i) The expiration date of the order, which shall be not more than one
10 year from the date that the order is issued;

11 (ii) a statement that the enjoined individual may seek relief from the
12 order, if the court determines, after notice and hearing, that one or more of
13 the required findings in this paragraph no longer apply; and

14 (iii) a statement that the person who sought the injunction may seek
15 an extension of the order of not more than one year if the court determines,
16 after notice and hearing, that the required findings in this paragraph
17 continue to apply.

18 (6) If a person violates any order issued pursuant to this section, the
19 court may grant any civil remedy permitted by state law.

20 (7) A civil action may be brought in any county where an element of
21 the violation of this section occurred or where a person resides who is the
22 subject of personally identifiable information published in violation of this
23 section.

24 (f) As used in this section:

25 (1) "Electronic communication" means any transfer of signs, signals,
26 writing, images, sounds, data or intelligence of any nature transmitted, in
27 whole or in part, by a wire, radio, electromagnetic, photoelectronic or
28 photo-optical system.

29 (2) "Emotional distress" means significant mental suffering, anxiety
30 or alarm. "Emotional distress" is limited to emotional suffering that is
31 protracted and not merely trivial or transitory.

32 (3) "Family or household member" means the same as defined in
33 K.S.A. 21-5414, and amendments thereto.

34 (4) "Personally identifiable information" means any information that
35 can be used to distinguish or trace a person's identity, including, but not
36 limited to, name, prior legal name, alias, mother's maiden name and date
37 or place of birth, in combination with any other information that is linked
38 or linkable to a specific, identifiable person, including, but not limited to,
39 the following:

40 (A) Social security number, home address, phone number, email
41 address, social media accounts or biometric data;

42 (B) medical, financial, education, consumer or employment
43 information, data or records;

1 (C) gender identity, sexual orientation or any sexually intimate visual
2 depiction; and

3 (D) any information that provides access to a person's
4 teleconferencing, video-teleconferencing or other digital meeting room.

5 (5) "Post" means to circulate, deliver, distribute, disseminate, transmit
6 or otherwise make available to two or more persons through electronic
7 communication.

8 (6) "Publish" means to circulate, deliver, distribute, disseminate, post,
9 transmit or otherwise make available to another person. "Publish" does not
10 include writing or electronically communicating to one other person in
11 private communications for which an individual has a reasonable
12 expectation of privacy.

13 (7) "Stalking" means the same as defined in K.S.A. 60-31a02, and
14 amendments thereto.

15 (8) "Substantial life disruption" means a material and significant
16 alteration of an individual's livelihood, including, but not limited to,
17 moving from an established residence, changing routes to and from work,
18 changing employment or work schedule or losing time at work or a job.

19 (g) If any provision of this section or the application thereof to any
20 person or circumstance is held invalid, such invalidity shall not affect the
21 other provisions or applications of the section that can be given effect
22 without the invalid provision or application, and to this end the provisions
23 of this section are severable.

24 Sec. 2. This act shall take effect and be in force from and after its
25 publication in the statute book.