

BILL

No. 51

An Act to amend *The Privacy Act*

(Assented to _____)

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

Short title

1 This Act may be cited as *The Privacy (Intimate Images—Additional Remedies) Amendment Act, 2021*.

RSS 1978, c P-24 amended

2 *The Privacy Act* is amended in the manner set forth in this Act.

New section 7.1

3 **Section 7.1 is repealed and the following substituted:**

“Definition for Part

7.1 In this Part, ‘**intimate image**’ means a visual recording of a person, whether or not the person is identifiable or whether or not the image has been altered in any way, made by any means, including a photograph, film or video recording:

- (a) in which the person in the image is or is depicted as:
 - (i) nude or exposing his or her genital organs or anal region or her breasts; or
 - (ii) engaging in explicit sexual activity;
- (b) that was recorded in circumstances that gave rise to a reasonable expectation of privacy with respect to the image; and
- (c) if the image has been distributed, in which the person who is or is depicted in the image retained a reasonable expectation of privacy at the time it was distributed”.

Section 7.2 amended

4 **Section 7.2 is amended by striking out “depicted in” and substituting “who is or is depicted in”.**

Section 7.3 amended

5(1) Subsection 7.3(1) is amended by adding “or threaten to distribute” after “distribute”.

(2) Subsection 7.3(2) is repealed and the following substituted:

“(2) A person who distributes or threatens to distribute an intimate image commits the tort mentioned in subsection (1) against the person who is or is depicted in the image in any of the following circumstances:

- (a) the person knows that the person who is or is depicted in the image does not consent to the distribution;
- (b) the person is reckless as to whether or not the person who is or is depicted in the image consents to the distribution”.

(3) Subsection 7.3(3) is amended by striking out “for the non-consensual distribution of an intimate image” and substituting “pursuant to this section”.

Section 7.4 amended

6 Section 7.4 is amended in the portion preceding clause (a) by striking out “depicted in” and substituting “who is or is depicted in”.

Section 7.5 amended

7 Subsection 7.5(1) is amended by striking out “depicted in” and substituting “who is or is depicted in”.

Section 7.7 amended

8 The following clause is added after clause 7.7(1)(b):

“(b.1) with respect to all or any intimate images of the plaintiff that the defendant has distributed or threatened to distribute without the plaintiff’s consent:

- (i) declare the distribution of the intimate images to be unlawful;
- (ii) order the defendant to make every reasonable effort to make the intimate images unavailable to others, including by:
 - (A) destroying all copies of the intimate images in the defendant’s possession or control;
 - (B) having the intimate images removed from any platform operated by an internet intermediary; and
 - (C) having the intimate images de-indexed from any internet search engine;
- (iii) order any internet intermediary or other person or organization to make every reasonable effort to remove or de-index all intimate images of the plaintiff”.

Section 12 amended

9 Clause 12(c) is amended by striking out “for the non-consensual distribution of an intimate image” and substituting “pursuant to section 7.3”.

Coming into force

10 This Act comes into force on assent.

SECOND SESSION

Twenty-ninth Legislature

SASKATCHEWAN

B I L L

No. 51

An Act to amend *The Privacy Act*

Received and read the

First time

Second time

Third time

And passed

Honourable Gordon Wyant
