

HB 2393 A STAFF MEASURE SUMMARY**Carrier:** Sen. Fagan**Senate Committee On Judiciary****Action Date:** 05/22/19**Action:** Do pass the A-Eng bill.**Vote:** 7-0-0-0**Yeas:** 7 - Bentz, Fagan, Gelser, Linthicum, Manning Jr, Prozanski, Thatcher**Fiscal:** Has minimal fiscal impact**Revenue:** No revenue impact**Prepared By:** Gillian Fischer, Counsel**Meeting Dates:** 4/23, 5/22**WHAT THE MEASURE DOES:**

Removes requirement from the crime of unlawful dissemination of an intimate image that the image be disclosed through an Internet website. Removes from the crime of harassment the distribution of a visual recording of another person under the age of 18 engaged in sexually explicit conduct or in a state of nudity. Defines "identifiable" to mean that a reasonable person would be able to recognize the individual depicted in the image as the other person. Creates a civil cause of action for any person, or person's parent or guardian, depicted in an image disclosed resulting from commission of the crime of unlawful dissemination of an intimate image. Creates statutory damages of \$5,000 against any defendant or the parents or legal guardian of any minor found liable under ORS 163.472. Limits liability of minors or their parents to \$5,000 per plaintiff. Makes technical changes. Prohibits an award of statutory damages from being used as evidence of economic damages for purposes of determining restitution under ORS 137.106.

ISSUES DISCUSSED:

- Consolidation of criminal statutes governing the same or similar conduct
- Civil action recommendation consistent with Uniform Law Commission recommendations
- Statutory damages intended to be per plaintiff and not per image disseminated
- Limits financial liability of minors

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Currently, the crime of unlawful dissemination of an intimate image prohibits disclosure of an identifiable image through an Internet website. It does not prohibit the dissemination of images transmitted via the Internet, including through text or apps. The dissemination of intimate images by means other than the Internet is currently governed by ORS 166.065 and constitutes harassment only when the image involves a minor.

House Bill 2393 A removes the language requiring disclosure to occur via an Internet website in order for the crime of unlawful dissemination of an intimate image to occur. It also subsumes conduct relating to disclosure of an image of a minor found in the harassment statute, ORS 166.065(1)(a)(C), consolidating the two crimes into one. Additionally, the measure creates a private right of action for the person, or the parents or guardian of the person, depicted in the image, but caps liability for the defendant at \$5,000 per plaintiff.