

1 ENGROSSED SENATE AMENDMENT
TO
2 ENGROSSED HOUSE
BILL NO. 3024

By: Jordan of the House
and
Holt of the Senate

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7 An Act relating to civil procedure; creating the
8 Catfishing Liability Act of 2016; defining terms;
9 providing cause of action for Internet catfishing;
10 providing for liability; providing for injunctive
11 relief; providing for actual and punitive damages;
12 providing exception from liability; making remedies
13 cumulative; providing for codification; and providing
14 an effective date.

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16 AMENDMENT NO. 1. Page 1, strike the title, enacting clause and
entire bill and insert

17 An Act relating to online impersonation; creating the
18 Catfishing Liability Act of 2016; providing short
19 title; defining terms; establishing cause of action
20 for online impersonation for certain purposes;
21 providing exception; authorizing request for certain
22 injunctive relief; authorizing award of certain
23 damages; authorizing award of certain fees and costs;
24 construing provisions; making remedies cumulative;
providing for noncodification; providing for
codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

1 SECTION 1. NEW LAW A new section of law not to be
2 codified in the Oklahoma Statutes reads as follows:

3 This act shall be known and may be cited as the "Catfishing
4 Liability Act of 2016."

5 SECTION 2. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 1450 of Title 12, unless there
7 is created a duplication in numbering, reads as follows:

8 A. As used in this section:

9 1. "Photograph" means any photograph or photographic
10 reproduction, still or moving, or any videotape or live television
11 transmission of any person, such that the person is readily
12 identifiable. A person shall be deemed to be readily identifiable
13 from a photograph when one who views the photograph with the naked
14 eye can reasonably determine that the person depicted in the
15 photograph is the same person who is complaining of its unauthorized
16 use, or the person on whose behalf a complaint is being made; and

17 2. "Social media" means forms of electronic communication
18 through which users create online communities to share information,
19 ideas, personal messages and other content.

20 B. Any person who knowingly uses another's name, voice,
21 signature, photograph or likeness through social media to create a
22 false identity without such person's consent, or in the case of a
23 minor the consent of his or her parent or legal guardian, for the
24 purpose of harming, intimidating, threatening or defrauding such

1 person, shall be liable for online impersonation and liable for any
2 damages sustained by the person or persons injured as a result
3 thereof; provided, however, there shall be no liability for any
4 online impersonation for which the sole purpose is satire or parody.

5 C. At the time of filing a petition for an action pursuant to
6 this section, the plaintiff may request an automatic injunction
7 preventing the continued use of the plaintiff's name, voice,
8 signature, photograph or likeness. The plaintiff may be awarded
9 damages as provided in subsection D of this section.

10 D. Actual damages shall include, but not be limited to, funds
11 spent related to counseling, identity theft or libel. Any profits
12 from the unauthorized use of such person's likeness that are
13 attributable to the use may be considered in the computation of
14 actual damages. Punitive damages of no less than Five Hundred
15 Dollars (\$500.00) per individual may be awarded to the injured party
16 or parties. The prevailing party in any action under this section
17 shall be entitled to attorney fees and costs.

18 E. This section shall not apply to law enforcement agencies or
19 their employees acting within the scope of their employment
20 investigating Internet crimes. Nothing in this section shall be
21 construed to impose liability on an interactive computer service, as
22 defined in 47 U.S.C. 230(f), for content provided by another person.

23 F. The remedies provided for in this section are cumulative and
24 shall be in addition to any others provided for by law.

1 ENGROSSED HOUSE
2 BILL NO. 3024

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7 An Act relating to civil procedure; creating the
8 Catfishing Liability Act of 2016; defining terms;
9 providing cause of action for Internet catfishing;
10 providing for liability; providing for injunctive
11 relief; providing for actual and punitive damages;
12 providing exception from liability; making remedies
13 cumulative; providing for codification; and providing
14 an effective date.

15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

16 SECTION 1. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 1450 of Title 12, unless there
18 is created a duplication in numbering, reads as follows:

19 A. This section shall be known and may be cited as the
20 "Catfishing Liability Act of 2016".

21 B. As used in this section:

22 1. "Photograph" means any photograph or photographic
23 reproduction, still or moving, or any videotape or live television
24 transmission of any person, such that the person is readily
identifiable. A person shall be deemed to be readily identifiable
from a photograph when one who views the photograph with the naked

1 eye can reasonably determine that the person depicted in the
2 photograph is the same person who is complaining of its unauthorized
3 use; and

4 2. "Social media" means forms of electronic communication
5 through which users create online communities to share information,
6 ideas, personal messages and other content.

7 C. Any person who knowingly uses another's name, voice,
8 signature, photograph or likeness through social media to create
9 false identities without such person's prior consent, or in the case
10 of a minor the prior consent of his or her parent or legal guardian,
11 shall be liable for Internet catfishing and liable for any damages
12 sustained by the person or persons injured as a result thereof.

13 D. In addition, at the time of filing a petition, the plaintiff
14 may request an automatic injunction preventing the continued use of
15 the plaintiff's name, voice, signature, photograph or likeness.

16 E. The plaintiff may be awarded damages as provided in
17 subsections F and G of this section.

18 F. Actual damages shall include, but not be limited to, funds
19 spent on counseling, identity theft and libel. Any profits from the
20 unauthorized use of such person's likeness that are attributable to
21 the use shall be taken into account in computing the actual damages.
22 In establishing commercialization damages, the injured party or
23 parties are required to present proof only of the gross revenue
24 attributable to such use.

1 G. Punitive damages may also be awarded to the injured party or
2 parties with a minimum being set of Five Hundred Dollars (\$500.00)
3 per individual. The prevailing party in any action under this
4 section shall also be entitled to attorney fees and costs.

5 H. Nothing in this section shall apply to law enforcement
6 agencies or their employees acting within the scope of their
7 employment investigating Internet crimes.

8 I. The remedies provided for in this section are cumulative and
9 shall be in addition to any others provided for by law.

10 SECTION 2. This act shall become effective November 1, 2016.

11 Passed the House of Representatives the 23rd day of February,
12 2016.

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Presiding Officer of the House
of Representatives

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Passed the Senate the ___ day of _____, 2016.

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Presiding Officer of the Senate

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