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AB-1979 Doxing Victims Recourse Act. (2023-2024)

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Assembly Bill No. 1979

CHAPTER 557

An act to add Section 1708.89 to the Civil Code, and to amend Section 529 of the Code of Civil Procedure, relating to civil law.

[Approved by Governor September 25, 2024. Filed with Secretary of State September 25, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1979, Ward. Doxing Victims Recourse Act.

Existing law makes it a crime for a person who, with the intent to place another person in reasonable fear for that other person's safety, or the safety of the other person's immediate family, by means of an electronic communication device, and without consent of the other person, and for the purpose of imminently causing that other person unwanted contact, injury, or harassment by a third party, distributes personal identifying information that would be likely to incite or produce that unlawful action. Existing law makes this a misdemeanor punishable by up to one year in a county jail or by a fine of not more than \$1,000.

This bill would create a private cause of action against a person who doxes, as defined, another person. The bill would entitle a prevailing plaintiff who suffers harm as a result of being doxed to specified damages, and would authorize the court to order equitable relief, as specified, and injunctive relief maintaining the confidentiality of a plaintiff using a pseudonym instead of their true name. The bill would authorize a plaintiff to proceed using a pseudonym and would require the plaintiff to file a confidential information form, as prescribed. The bill would require the court to keep the plaintiff's name and excluded or redacted characteristics confidential, as specified, and, upon request of the plaintiff, limit access to court records filed under these provisions to specified individuals. The bill would require the Judicial Council, on or before January 1, 2026, to adopt or revise as appropriate rules and forms to implement specified provisions.

Existing law requires a court or judge, on granting an injunction, to require an undertaking on the part of the applicant sufficient to cover certain damages the party enjoined may sustain by reason of the injunction, if the court finally decides that the applicant was not entitled to the injunction. Existing law exempts from the undertaking requirement certain persons seeking an injunction, as specified.

This bill would additionally exempt from the undertaking requirement an applicant seeking an injunction ordering the defendant to cease doxing activities.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. This act shall be known, and may be cited, as the Doxing Victims Recourse Act.

SEC. 2. Section 1708.89 is added to the Civil Code, to read:

1708.89. (a) For purposes of this section, the following terms apply:

(1) "Doxes" means an act when a person, with intent to place another person in reasonable fear for their safety, or the safety of the other person's immediate family, by means of an electronic communication device, and without consent of the other person, and for the purpose of imminently causing that other person unwanted physical contact, injury, or harassment, by a third party, electronically distributes, publishes, emails, hyperlinks, or makes available for downloading, personal identifying information, including, but not limited to, a digital image of another person, or an electronic message of a harassing nature about another person, which would be likely to incite or produce that unlawful action.

(2) "Electronic communication" has the same meaning as the term is defined in paragraph (12) of Section 2510 of Title 18 of the United States Code.

(3) "Electronic communication device" includes, but is not limited to, telephones, cell phones, computers, internet web pages or websites, internet phones, hybrid cellular/wireless devices, personal digital assistants, video recorders, fax machines, or pagers.

(4) "Harassment" means a knowing and willful course of conduct directed at a specific person that a reasonable person would consider as seriously alarming, seriously annoying, seriously tormenting, or seriously terrorizing the person and that serves no legitimate purpose.

(5) "Identifying characteristics" means name or any part thereof, address or any part thereof, city or unincorporated area of residence, age, marital status, relationship to defendant, and race or ethnic background, telephone number, email address, social media profiles, online identifiers, contact information, or any other information, including images of the plaintiff, from which the plaintiff's identity can be discerned.

(6) "Of a harassing nature" means of a nature that a reasonable person would consider as seriously alarming, seriously annoying, seriously tormenting, or seriously terrorizing of the person and that serves no legitimate purpose.

(7) "Online identifiers" means any personally identifying information or signifiers that would tie an individual to a particular electronic service, device, or internet application, website, or platform account, including, but not limited to, access names, access codes, account names, aliases, avatars, credentials, gamer tags, display names, handles, login names, member names, online identities, pseudonyms, screen names, user accounts, user identifications, usernames, Uniform Resource Locators (URLs), domain names, Internet Protocol (IP) addresses, and media access control (MAC) addresses.

(b) A private cause of action lies against a person who doxes another person.

(c) A prevailing plaintiff who suffers harm as a result of being doxed in violation of subdivision (b) may recover any of the following:

(1) Economic and noneconomic damages proximately caused by being doxed, including, but not limited to, damages for physical harm, emotional distress, or property damage.

(2) Statutory damages of a sum of not less than one thousand five hundred dollars (\$1,500) but not more than thirty thousand dollars (\$30,000).

(3) Punitive damages.

(4) Upon the court holding a properly noticed hearing, reasonable attorney's fees and costs to the prevailing plaintiff.

(d) In addition to any other relief available at law, the court may order equitable relief against the person violating subdivision (b), including a temporary restraining order, or a preliminary injunction or a permanent injunction ordering the defendant to cease doxing activities. The court may grant injunctive relief maintaining the confidentiality of a plaintiff using a pseudonym as provided in subdivision (e).

(e) (1) A plaintiff in a civil proceeding pursuant to subdivision (b) may proceed using a pseudonym, either John Doe, Jane Doe, or Doe, for the true name of the plaintiff and may exclude or redact from all pleadings and documents filed in the action other identifying characteristics of the plaintiff. A plaintiff who proceeds using a pseudonym and excluding or redacting identifying characteristics as provided in this section shall file with the court and serve upon the defendant a confidential information form for

this purpose that includes the plaintiff's name and other identifying characteristics excluded or redacted. The court shall keep the plaintiff's name and excluded or redacted characteristics confidential.

(2) In cases where a plaintiff proceeds using a pseudonym under this section, the following applies:

(A) All other parties and their agents and attorneys shall use this pseudonym in all pleadings, discovery documents, and other documents filed or served in the action, and at hearings, trial, and other court proceedings that are open to the public.

(B) (i) Any party filing a pleading, discovery document, or other document in the action shall exclude or redact any identifying characteristics of the plaintiff from the pleading, discovery document, or other document, except for a confidential information form filed pursuant to this subdivision.

(ii) A party excluding or redacting identifying characteristics as provided in this section shall file with the court and serve upon all other parties a confidential information form that includes the plaintiff's name and other identifying characteristics excluded or redacted. The court shall keep the plaintiff's name and excluded or redacted characteristics confidential.

(C) All court decisions, orders, petitions, discovery documents, and other documents shall be worded so as to protect the name or other identifying characteristics of the plaintiff from public revelation.

(3) The responsibility for excluding or redacting the name or identifying characteristics of the plaintiff from all documents filed with the court shall be the responsibility of the parties and their attorneys. This section does not require the court to review pleadings or other papers for compliance with this subdivision.

(4) Upon request of the plaintiff, the court shall limit access to the court records in an action filed under this section to the following individuals:

(A) A party to the action, including a party's attorney.

(B) A person by order of the court on a showing of good cause for access.

(C) A person 60 days after judgment is entered unless the court grants a plaintiff's motion to seal records pursuant to Chapter 3 of Division 4 of Title 2 of the California Rules of Court.

(f) In an action pursuant to this section, the plaintiff shall state in the caption of the complaint "ACTION BASED ON CIVIL CODE SECTION 1708.89."

(g) This section does not alter or negate any rights, obligations, or immunities of an interactive service provider under Section 230 of Title 47 of the United States Code. This section does not limit or preclude a plaintiff from securing or recovering any other available remedy.

(h) On or before January 1, 2026, the Judicial Council shall adopt or revise as appropriate rules and forms to implement subdivision (e).

(i) This section shall not apply against a person who solely does either of the following:

(1) Provide a person's personal identifying information or sensitive personal information in connection with the reporting of criminal activity to an employee of a law enforcement agency or with any lawfully authorized investigative, protective, or intelligence activity of any law enforcement agency or of an intelligence agency of the United States and the person making the report reasonably believes it is true.

(2) Disseminate the personally identifiable information for the purpose of, or in connection with, the reporting of conduct reasonably believed to be unlawful.

(j) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 3. Section 529 of the Code of Civil Procedure is amended to read:

529. (a) On granting an injunction, the court or judge must require an undertaking on the part of the applicant to the effect that the applicant will pay to the party enjoined any damages, not exceeding an amount to be specified, the party may sustain by reason of the injunction, if the court finally decides that the applicant was not entitled to the injunction. Within five days after the service of the injunction, the person enjoined may object to the undertaking. If the court determines that the applicant's undertaking is insufficient and a sufficient undertaking is not filed within the time required by statute, the order granting the injunction must be dissolved.

(b) This section does not apply to any of the following persons:

- (1) Either spouse against the other in a proceeding for legal separation or dissolution of marriage.
- (2) The applicant for an order described in Division 10 (commencing with Section 6200) of the Family Code.
- (3) A public entity or officer described in Section 995.220.
- (4) An applicant requesting an injunction under subdivision (d) of Section 1708.85 of the Civil Code.
- (5) An applicant requesting an injunction under subdivision (d) of Section 1708.89 of the Civil Code.

SEC. 4. The Legislature finds and declares that Section 2 of this act, which adds Section 1708.89 to the Civil Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

It is in the best interest for the public to keep these records confidential in order to protect the identity of any victim, or their immediate family, whose privacy was violated by doxing activities, which involved the distribution of personal identifying information, without the consent of the victim, that placed the victim, or their immediate family, in reasonable fear for their safety.