

§12-1450. Online impersonation – Liability – Remedies.

A. As used in this section:

1. "Photograph" means any photograph or photographic reproduction, still or moving, or any videotape or live television 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 eye can reasonably determine that the person depicted in the photograph is the same person who is complaining of its unauthorized use, or the person on whose behalf a complaint is being made; and

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

B. Any person who knowingly uses another's name, voice, signature, photograph or likeness through social media to create a false identity without such person's consent, or in the case of a minor the consent of his or her parent or legal guardian, for the purpose of harming, intimidating, threatening or defrauding such person, shall be liable for online impersonation and liable for any damages sustained by the person or persons injured as a result thereof; provided, however, there shall be no liability for any online impersonation for which the sole purpose is satire or parody.

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

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

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

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

Added by Laws 2016, c. 291, § 2, eff. Nov. 1, 2016.