
New act intended to tackle revenge porn

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Proposed legislation seeks to reverse onus to make alleged perpetrators prove consent

With so much of our lives moved online, it is no surprise that crime has shifted there too.

The provincial government, however, is attempting to tackle one of the thornier issues facing particularly young people. In his speech from the throne, Premier Brad Wall promised to introduce legislation that would allow victims of revenge porn, among others, to take their cases to civil court — particularly small claims court — instead of seeking justice in the criminal system. Legislation to that effect was introduced earlier this week.

“We saw other provinces and other jurisdictions looking at it, but we also saw a number of suicides in our province and elsewhere because of social media,” Minister of Justice and Attorney General Don Morgan told reporters. “We felt it was one aspect of social media that we felt should be addressed, and this tool was available to us legislatively so we thought we’d use it.”

The Privacy Amendment Act would allow an individual whose intimate images were shared online without their consent to sue the person who posted them for damages, as well as obtain an injunction ordering the image taken down. If the victim chooses to take the matter to small claims court, damages are capped at \$30,000.

Perhaps most importantly, the legislation shifts the responsibility to prove consent to the person who shares the images, instead of relying on the victim to prove a lack thereof. Examples of that kind of evidence include emails or text messages stating that the person in the photo or video agreed that it could be posted or disseminated online.

The justice department was unable to provide any data on the prevalence of cases in which intimate images were shared without consent, and neither was Sexual Assault Services of Saskatchewan. Executive director Kerri Isaac said the member organizations she deals with have not been recording incidents of revenge porn or similar activities.

“With any intimate image such as that, they’re shaming and their being used to humiliate individuals, and that’s a form of sexual harassment and it contributes to sexual violence culture and beliefs and attitudes that are out there,” she told the Times-Herald. “If we’re promoting this legislation, and putting the onus on the perpetrators, we’re sending a message that sexual violence of any form is not tolerated.”

She also said the changes would allow more victims to access recourse through the courts.

“It recognizes the notion of consent, and the justice system has struggled with understanding true consent and enforcing violations for that,” she said.

Isaac called the proposal “a good start,” and said that while she could not speak to the prevalence of this kind of activity in her work, she noted that the sharing of images and videos on social media is certainly commonplace.

The legislation, however, is not limited to the posting of explicit images to social media or websites. According to Morgan, it would also cover photos or videos shared through email or text with a number of people.

Those images themselves are defined as photos or videos in which a person is nude, partially nude, or engaged in explicit sexual activity, taken under circumstances with an implied reasonable expectation of privacy.

“Social media is one of those things; it’s incredibly pervasive,” Morgan said. “It follows young people home, it follows them into their bedrooms late at night — this is a protection that we want to have so that they will have a disincentive for that kind of conduct to continue.”