

By: Smith

H.B. No. 2508

A BILL TO BE ENTITLED

AN ACT

relating to Creating a Criminal Offense for the unlawful disclosure
of an autopsy photograph.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 49, Code of Criminal Procedure, is
amended by adding Article 49.105 to read as follows:

Art. 49.105. UNLAWFUL DISCLOSURE OF AN AUTOPSY PHOTOGRAPH.

(a) In this section:

(1) "Photograph" means:

(A) any film, photograph, videotape, negative,
or slide or any photographic reproduction that contains or
incorporates in any manner any film, photograph, videotape,
negative, or slide; or

(B) any disk, diskette, or other physical medium
that allows an image to be displayed on a computer or other video
screen and any image transmitted to a computer or other video screen
by telephone line, cable, satellite transmission, or other method.

(b) A person commits an offense if:

(1) without the effective consent of the depicted
person or the legal representative of the depicted person, the
person discloses a photograph from an autopsy;

(2) the disclosure of the photograph reveals the
identity of the depicted person in any manner, including through:

(A) any accompanying or subsequent information

1 or material related to the photograph; or

2 (B) information or material provided by a third
3 party in response to the disclosure of the photograph.

4 (c) A person commits an offense if, knowing the character
5 and content of the photograph, the person promotes the photograph
6 described by Subsection (b) on an Internet website or other forum
7 for publication that is owned or operated by the person.

8 (d) It is an affirmative defense to prosecution under
9 Subsection (b) or (c) that:

10 (1) the disclosure or promotion is made in the course
11 of:

12 (A) reporting unlawful activity; or

13 (B) a legal proceeding, if the disclosure or
14 promotion is permitted or required by law;

15 (2) the actor is an interactive computer service, as
16 defined by 47 U.S.C. Section 230, and the disclosure or promotion
17 consists of visual material provided by another person.

18 (e) An offense under subsection (b)(1) or (b)(2) is a Class A
19 Misdemeanor. An offense under subsection (c) is a State Jail
20 Felony.

21 (f) If conduct that constitutes an offense under this
22 section also constitutes an offense under another law, the actor
23 may be prosecuted under this section, the other law, or both.

24 SECTION 2. The change in law made by this Act applies only
25 to an offense committed on or after the effective date of this Act.
26 An offense committed before the effective date of this Act is
27 covered by the law in effect when the offense was committed, and the

1 former law is continued in effect for that purpose. For purposes of
2 this section, an offense was committed before the effective date of
3 this Act if any element of the offense occurred before that date.

4 SECTION 3. This Act takes effect September 1, 2021.