

By: Dominguez

H.B. No. 4533

A BILL TO BE ENTITLED

AN ACT

relating to civil and criminal liability for the unlawful disclosure of intimate visual material.

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

SECTION 1. Section 98B.002(a), Civil Practice and Remedies Code, is amended to read as follows:

(a) A defendant is liable, as provided by this chapter, to a person depicted in intimate visual material for damages arising from the disclosure of the material if:

(1) the defendant ~~[discloses]~~ disseminates the intimate visual material without the effective consent of the depicted person and with the intent to harm that person;

(2) it is rebuttal presumption that a person has disseminated intimate visual material without effective consent if the depicted person, within 48 hours of the discovery of the dissemination, contacts law enforcement to complain of the dissemination;

(3) at the time of the disclosure, the defendant knows or has reason to believe that the intimate visual material was obtained by the defendant or created under circumstances in which the depicted person had a reasonable expectation that the material would remain private;

(4) the disclosure of the intimate visual material causes harm to the depicted person; and

1           (5) the disclosure of the intimate visual material  
2 reveals the identity of the depicted person in any manner,  
3 including through:

4                   (A) any accompanying or subsequent information  
5 or material related to the intimate visual material; or

6                   (B) information or material provided by a third  
7 party in response to the disclosure of the intimate visual  
8 material.

9           SECTION 2. Section 21.16(b), Penal Code, is amended to read  
10 as follows:

11           (b) A person commits an offense if:

12                   (1) without the effective consent of the depicted  
13 person and with the intent to harm that person, the person discloses  
14 visual material depicting another person with the person's intimate  
15 parts exposed or engaged in sexual conduct;

16                   (2) intentionally or knowingly disseminates visual  
17 material depicting another person with the person's intimate parts  
18 exposed or engaged in sexual conduct;

19                   (3) at the time of the disclosure, the person knows or  
20 has reason to believe that the visual material was obtained by the  
21 person or created under circumstances in which the depicted person  
22 had a reasonable expectation that the visual material would remain  
23 private;

24                   (4) the disclosure of the visual material causes harm  
25 to the depicted person; and

26                   (5) the disclosure of the visual material reveals the  
27 identity of the depicted person in any manner, including through:

1 (A) any accompanying or subsequent information  
2 or material related to the visual material; or

3 (B) information or material provided by a third  
4 party in response to the disclosure of the visual material; or

5 (C) It is a defense to prosecution that the  
6 defendant had obtained the effective consent to disseminate the  
7 intimate visual material of the depicted person.

8 SECTION 3. (a) Section 98B.002, Civil Practice and  
9 Remedies Code, as amended by this Act, applies only to a cause of  
10 action that accrues on or after the effective date of this Act. A  
11 cause of action that accrues before the effective date of this Act  
12 is governed by the law applicable to the cause of action immediately  
13 before the effective date of this Act, and that law is continued in  
14 effect for that purpose.

15 (b) Section 21.16, Penal Code, as amended by this Act,  
16 applies only to an offense committed on or after the effective date  
17 of this Act. An offense committed before the effective date of this  
18 Act is governed by the law in effect on the date the offense was  
19 committed, and the former law is continued in effect for that  
20 purpose. For purposes of this subsection, an offense was committed  
21 before the effective date of this Act if any element of the offense  
22 was committed before that date.

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