

By: Creighton

S.B. No. 1388

A BILL TO BE ENTITLED

AN ACT

relating to the unlawful disclosure of an autopsy image or other visual depiction; creating a criminal offense.

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

SECTION 1. Chapter 42, Penal Code, is amended by adding Section 42.076 to read as follows:

Sec. 42.076. UNLAWFUL DISCLOSURE OF AUTOPSY IMAGE OR OTHER VISUAL DEPICTION. (a) A person commits an offense if:

(1) the person discloses an image or other visual depiction of an autopsy without the prior consent of the person who is the subject of the autopsy or without the consent of that person's legal representative; and

(2) the disclosure of the image or other visual depiction reveals in any manner the identity of the person who is the subject of the autopsy, including through:

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

(B) information or material provided by a third party in response to the disclosure of the visual depiction.

(b) It is an affirmative defense to prosecution under this section that:

(1) the disclosure is made in the course of:

(A) reporting unlawful activity;

(B) a legal proceeding, if the disclosure is

1 permitted or required by law; or

2 (C) a legitimate medical, educational, research,  
3 scientific, investigational, forensic, or academic proceeding; or

4 (2) the actor is an interactive computer service, as  
5 defined by 47 U.S.C. Section 230, and the disclosure consists of an  
6 image or visual depiction provided by another person to the  
7 computer service.

8 (c) An offense under this section is a misdemeanor  
9 punishable by:

10 (1) a fine of not more than \$1,000;

11 (2) confinement in the county jail for not more than  
12 six months; or

13 (3) both the fine and confinement.

14 (d) If conduct constituting an offense under this section  
15 also constitutes an offense under Section 552.352, Government Code,  
16 the actor may be prosecuted under either section.

17 SECTION 2. This Act takes effect September 1, 2021.