

By: Creighton

S.B. No. 1388

A BILL TO BE ENTITLED

AN ACT

relating to the unlawful disclosure or promotion 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 OR PROMOTION 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) A person commits an offense if, knowing the character and content of the depiction, the person promotes an image or other visual depiction described by Subsection (a) on an Internet website or other forum for publication that is owned or operated by the

1 person.

2 (c) It is an affirmative defense to prosecution under
3 Subsection (a) or (b) that:

4 (1) the disclosure or promotion is made in the course
5 of:

6 (A) reporting unlawful activity; or

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

9 (2) the actor is an interactive computer service, as
10 defined by 47 U.S.C. Section 230, and the disclosure or promotion
11 consists of an image or visual depiction provided by another person
12 to the computer service.

13 (d) An offense under Subsection (a) is a Class A
14 misdemeanor. An offense under Subsection (b) is a state jail
15 felony.

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

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