

1-1 By: Creighton S.B. No. 1388
1-2 (In the Senate - Filed March 10, 2021; March 18, 2021, read
1-3 first time and referred to Committee on Criminal Justice;
1-4 May 6, 2021, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 6, Nays 0; May 6, 2021, sent
1-6 to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Whitmire	X		
1-10	Huffman	X		
1-11	Bettencourt	X		
1-12	Birdwell	X		
1-13	Hinojosa	X		
1-14	Miles	X		
1-15	Nichols		X	

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 1388 By: Whitmire

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to the unlawful disclosure of an autopsy image or other
1-20 visual depiction; creating a criminal offense.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Chapter 42, Penal Code, is amended by adding
1-23 Section 42.076 to read as follows:

1-24 Sec. 42.076. UNLAWFUL DISCLOSURE OF AUTOPSY IMAGE OR OTHER
1-25 VISUAL DEPICTION. (a) A person commits an offense if:

1-26 (1) the person discloses an image or other visual
1-27 depiction of an autopsy without the prior consent of the person who
1-28 is the subject of the autopsy or without the consent of that
1-29 person's legal representative; and

1-30 (2) the disclosure of the image or other visual
1-31 depiction reveals in any manner the identity of the person who is
1-32 the subject of the autopsy, including through:

1-33 (A) any accompanying or subsequent information
1-34 or material related to the visual depiction; or

1-35 (B) information or material provided by a third
1-36 party in response to the disclosure of the visual depiction.

1-37 (b) It is an affirmative defense to prosecution under this
1-38 section that:

1-39 (1) the disclosure is made in the course of:

1-40 (A) reporting unlawful activity; or

1-41 (B) a legal proceeding, if the disclosure is
1-42 permitted or required by law; or

1-43 (2) the actor is an interactive computer service, as
1-44 defined by 47 U.S.C. Section 230, and the disclosure consists of an
1-45 image or visual depiction provided by another person to the
1-46 computer service.

1-47 (c) An offense under this section is a misdemeanor
1-48 punishable by:

1-49 (1) a fine of not more than \$1,000;

1-50 (2) confinement in the county jail for not more than
1-51 six months; or

1-52 (3) both the fine and confinement.

1-53 (d) If conduct constituting an offense under this section
1-54 also constitutes an offense under Section 552.352, Government Code,
1-55 the actor may be prosecuted under either section.

1-56 SECTION 2. This Act takes effect September 1, 2021.

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