

By: Lalani

H.B. No. 4897

A BILL TO BE ENTITLED

AN ACT

relating to the liability of online impersonation; providing a civil penalty.

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

SECTION 1. Title 4, Civil Practice and Remedies Code, is amended by adding Chapter 98C to read as follows:

CHAPTER 98C. LIABILITY FOR ONLINE IMPERSONATION

Sec. 98C.001. DEFINITIONS. In this chapter:

(1) "Online impersonation" means a person's use of an individual's name, voice, signature, photograph, or likeness through social media without that individual's consent or if the individual is a minor, the consent of that individual's parent, legal guardian, or managing conservator.

(2) "Photograph" includes any photograph or photographic reproduction, still or moving, or any videotape or live television transmission of any individual in which the individual is readily identifiable.

(3) "Readily identifiable" means identifiable using only the naked eye to reasonably determine the identity of an individual in a photograph.

(4) "Social media" means a form of electronic communication through which users create online communities to share information, ideas, personal messages, and other content.

Sec. 98C.002. APPLICABILITY OF CHAPTER. This chapter does

1 not apply to a law enforcement agency or a law enforcement agency
2 employee acting within the scope of employment in investigating
3 Internet crimes.

4 Sec. 98C.003. CONSTRUCTION OF CHAPTER. This chapter may
5 not be construed to impose liability on an interactive computer
6 service as defined by 47 U.S.C. Section 230(f) for content provided
7 by another person.

8 Sec. 98C.004. LIABILITY FOR ONLINE IMPERSONATION;
9 EXCEPTION. (a) Except as provided by Subsection (b), a person is
10 liable to another person injured by the person's online
11 impersonation if the person knowingly and with the intent to harm,
12 defraud, intimidate, or threaten the injured person used the online
13 impersonation to create a false identity.

14 (b) A person is not liable for an online impersonation of
15 which the sole purpose is satire or parody.

16 Sec. 98C.005. DAMAGES. (a) A claimant who prevails in an
17 action under this chapter shall be awarded actual damages,
18 including expenditures made by the claimant related to counseling,
19 identity theft, or libel. The defendant's profits attributable to
20 the defendant's online impersonation of the claimant may be
21 considered in the computation of actual damages.

22 (b) In addition to an award under Subsection (a), a claimant
23 who prevails in an action under this chapter may recover exemplary
24 damages of not less than \$500.

25 (c) The court shall award costs and reasonable attorney's
26 fees to the prevailing party in any action under this chapter.

27 Sec. 98C.006. INJUNCTIVE RELIEF. A court in which an action

1 is brought under this chapter, on the motion of a claimant depicted
2 in the defendant's online impersonation, may issue a temporary
3 restraining order or a temporary or permanent injunction to
4 restrain and prevent the online impersonation of the claimant.

5 Sec. 98C.007. CAUSE OF ACTION CUMULATIVE. The cause of
6 action created by this chapter is cumulative of any other remedy
7 provided by common law or statute.

8 SECTION 7. This Act takes effect September 1, 2023.