

By: King of Zavala

H.B. No. 2185

A BILL TO BE ENTITLED

AN ACT

relating to civil and criminal liability for recording or distributing a visual image of a person in a private place with the intent to harm that person; creating an offense.

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 85A to read as follows:

CHAPTER 85A. LIABILITY FOR NONCONSENSUAL RECORDING, BROADCASTING, OR TRANSMITTING OF IMAGES

Sec. 85A.001. DEFINITIONS. In this chapter:

(1) "Claimant" means a party seeking to recover damages under this chapter, including a plaintiff, counterclaimant, cross-claimant, or third-party plaintiff. In an action in which a party seeks recovery of damages under this chapter on behalf of another person, "claimant" includes both that other person and the party seeking recovery of damages.

(2) "Defendant" includes any party from whom a claimant seeks recovery of damages under this chapter.

(3) "Harm" has the meaning assigned by Section 1.07, Penal Code.

(4) "Public place" has the meaning assigned by Section 1.07, Penal Code.

Sec. 85A.002. LIABILITY. A defendant is liable to a claimant for damages arising from the recording, broadcasting, or

1 transmitting by videotape or other electronic means of a visual  
2 image of the claimant while the claimant is at a place other than a  
3 public place without the claimant's consent and with the intent to  
4 harm the claimant.

5 Sec. 85A.003. DAMAGES. A claimant who prevails in a suit  
6 under this chapter may recover:

7 (1) an amount equal to not more than three times the  
8 actual and consequential damages;

9 (2) court costs; and

10 (3) reasonable attorney's fees.

11 Sec. 85A.004. CAUSE OF ACTION CUMULATIVE. The cause of  
12 action created by this chapter is cumulative of any other remedy  
13 provided by common law or statute.

14 SECTION 2. Chapter 42, Penal Code, is amended by adding  
15 Section 42.015 to read as follows:

16 Sec. 42.015. NONCONSENSUAL RECORDING, BROADCASTING, OR  
17 TRANSMITTING OF IMAGES. (a) A person commits an offense if the  
18 person by videotape or other electronic means records, broadcasts,  
19 or transmits a visual image of another while the other is at a place  
20 other than a public place:

21 (1) without the other person's consent; and

22 (2) with the intent to harm the other person.

23 (b) An offense under this section is a Class B misdemeanor.

24 (c) If conduct that constitutes an offense under this  
25 section also constitutes an offense under any other law, the actor  
26 may be prosecuted under this section or the other law.

27 SECTION 3. This Act takes effect September 1, 2013.