

By: M. Gonzalez of El Paso

H.B. No. 3627

A BILL TO BE ENTITLED

AN ACT

relating to civil liability for promotion of certain improper visual images.

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 98B to read as follows:

CHAPTER 98B. LIABILITY FOR PROMOTION OF IMPROPER VISUAL IMAGE

Sec. 98B.001. DEFINITION. In this chapter, "promotion of an improper visual image" includes:

(1) conduct that constitutes an offense under Section 21.15(b)(3), Penal Code; or

(2) without a person's consent, the publication or promotion of a photograph, videotape recording, or similar visual image of the person in the nude or engaged in sexual conduct, regardless of whether the person consented to the making of the photograph, recording, or image.

Sec. 98B.002. LIABILITY. A defendant is liable to a victim of promotion of an improper visual image, as provided by this chapter, for damages arising from the promotion if the defendant:

(1) knowingly or intentionally engages in promotion of an improper visual image with respect to the victim; or

(2) publishes or promotes an image that the defendant knows or reasonably should know constitutes an improper visual image under this chapter, and the publication of the image results

1 in the promotion of an improper visual image with respect to the
2 victim.

3 Sec. 98B.003. DAMAGES. (a) A claimant who prevails in a
4 suit under this chapter shall be awarded:

5 (1) actual damages, including damages for mental
6 anguish even if an injury other than mental anguish is not shown;

7 (2) court costs; and

8 (3) reasonable attorney's fees.

9 (b) In addition to an award under Subsection (a), a claimant
10 who prevails in a suit under this chapter may recover exemplary
11 damages.

12 Sec. 98B.004. CAUSE OF ACTION CUMULATIVE. The cause of
13 action created by this chapter is cumulative of any other remedy
14 provided by common law or statute.

15 Sec. 98B.005. JOINT AND SEVERAL LIABILITY. A person who
16 engages in conduct described by Section 98B.002 and is found liable
17 under this chapter or other law for any amount of damages arising
18 from that conduct is jointly and severally liable with any other
19 defendant for the entire amount of damages arising from that
20 conduct.

21 Sec. 98B.006. LIBERAL CONSTRUCTION AND APPLICATION. This
22 chapter shall be liberally construed and applied to promote its
23 underlying purpose to protect persons from, and provide adequate
24 remedies to victims of, promotion of an improper visual image.

25 SECTION 2. Chapter 98B, Civil Practice and Remedies Code,
26 as added by this Act, applies only to a cause of action that accrues
27 on or after the effective date of this Act. A cause of action that

1 accrues before the effective date of this Act is governed by the law
2 in effect immediately before that date, and that law is continued in
3 effect for that purpose.

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