

BILL ANALYSIS

C.S.H.B. 603
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that while nonconsensual dissemination of intimate visual material is not a new phenomenon, its prevalence, reach, and impact have increased in recent years. Recently, numerous states have passed or are considering legislation criminalizing this conduct. The parties express concern that current Texas law does not provide adequate protection against this type of nonconsensual dissemination. The goal of C.S.H.B. 603 is to address this issue that has been identified as a problem nationwide and to create protections for victims of this type of exploitation.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 603 amends the Penal Code to create the state jail felony offense of unlawful dissemination of certain visual material for a person who intentionally disseminates visual material depicting the other person with the other person's exposed intimate parts or engaged in sexual conduct under the following conditions: the person obtained the visual material under circumstances in which a reasonable person should have known or understood that the visual material was to remain private, the person knows or should have known that the depicted person did not consent to the dissemination, and the depicted person is identifiable from the content of the visual material or from any information displayed in connection with the visual material. The bill establishes a defense to prosecution for the offense that the dissemination is made in the course of lawful and common practices of law enforcement or medical treatment, reporting unlawful activity, or a legal proceeding if the dissemination was permitted or required by law; the dissemination consists of visual material depicting only a voluntary exposure of intimate parts or sexual conduct in a public or commercial setting; or the actor is an interactive computer service or a provider of an information service, as those terms are defined by federal law, and the dissemination consists of visual material provided by another person.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 603 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Chapter 21, Penal Code, is amended by adding Section 21.16 to read as follows:

Sec. 21.16. UNLAWFUL DISCLOSURE OF CERTAIN VISUAL MATERIAL. (a)

In this section:

(1) "Sexual conduct" has the meaning assigned by Section 43.25.

(2) "Visual material" has the meaning assigned by Section 43.26.

(b) A person commits an offense if the person:

(1) intentionally displays, distributes, publishes, advertises, offers, or otherwise discloses visual material depicting another person engaged in sexual conduct; and

(2) knows or should have known that the depicted person has not consented to the disclosure.

(c) It is a defense to prosecution under this section that:

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

(A) lawful and common practices of law enforcement or medical treatment;

(B) reporting unlawful activity; or

(C) a legal proceeding, if the disclosure was permitted or required by law;

(2) the disclosure consists of visual

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Chapter 21, Penal Code, is amended by adding Section 21.16 to read as follows:

Sec. 21.16. UNLAWFUL DISSEMINATION OF CERTAIN VISUAL MATERIAL. (a) In this section:

(1) "Exposed intimate parts" means a person's intimate parts that are:

(A) entirely unclothed; or

(B) clothed in a manner that leaves any portion of those parts uncovered or visible through less than fully opaque clothing.

(2) "Intimate parts" means the genitals, pubic area, anus, buttocks, or female nipple of a person.

(3) "Sexual conduct" has the meaning assigned by Section 43.25.

(4) "Visual material" has the meaning assigned by Section 43.26.

(b) A person commits an offense if:

(1) the person intentionally disseminates visual material depicting the other person:

(A) with the other person's exposed intimate parts; or

(B) engaged in sexual conduct;

(2) the person obtained the visual material under circumstances in which a reasonable person should have known or understood that the visual material was to remain private;

(3) the person knows or should have known that the depicted person did not consent to the dissemination; and

(4) the depicted person is identifiable from the content of the visual material or from any information displayed in connection with the visual material.

(c) It is a defense to prosecution under this section that:

(1) the dissemination is made in the course of:

(A) lawful and common practices of law enforcement or medical treatment;

(B) reporting unlawful activity; or

(C) a legal proceeding, if the dissemination was permitted or required by law;

(2) the dissemination consists of visual

material depicting only a voluntary exposure of sexual conduct in a public or commercial setting; or

(3) the actor is an interactive computer service, as defined by 47 U.S.C. Section 230, or a provider of an information service, as defined by 47 U.S.C. Section 153, and the disclosure consisted of visual material provided by another person.

(d) An offense under this section is a state jail felony.

SECTION 2. This Act takes effect September 1, 2015.

material depicting only a voluntary exposure of intimate parts or sexual conduct in a public or commercial setting; or

(3) the actor is an interactive computer service, as defined by 47 U.S.C. Section 230, or a provider of an information service, as defined by 47 U.S.C. Section 153, and the dissemination consists of visual material provided by another person.

(d) An offense under this section is a state jail felony.

SECTION 2. Same as introduced version.