

## **BILL ANALYSIS**

Senate Research Center  
84R470 JRR-D

S.B. 1317  
By: Menéndez  
Criminal Justice  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

There have been several reports in Texas of individuals who have had invasive and improper photographs taken of them without consent. Those who have attempted to pursue a legal remedy have found that there is none.

In 2014, the Texas Court of Appeals found that the statute governing improper photography was written too broadly because it contains language pertaining to invasive photographs taken "with the intent to arouse or gratify sexual desire." The court found that the Texas Legislature cannot legislate a person's mind.

S.B. 1317 aims to address the court's finding with a change in the language of the statute pertaining to images taken "with the intent to arouse or gratify the sexual desire of any person." S.B. 1317 tailors the language of Section 21.15, Penal Code, to criminalize the act of intentionally visually recording or using an electronic device to view any portion of a person's body if the person is in a public place, has a reasonable expectation that the portion of the body being visually recorded or viewed, whether clothed or unclothed, is not subject to public view, and has not consented to the visual recording or viewing.

The aim of this legislation is to provide a legal remedy for those whose privacy has been violated.

As proposed, S.B. 1317 amends current law relating to the prosecution of the offense of improper photography or visual recording.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Sections 21.15(a) and (b), Penal Code, as follows:

(a) Defines "female breast," "intimate area," "place in which a person has a reasonable expectation of privacy," and "promote."

(b) Provides that a person commits an offense if, without the other person's consent and with intent to invade the privacy of the other person, the person:

(1) photographs or by videotape or other electronic means records, broadcasts, or transmits a visual image of an intimate area of another person under circumstances in which the other person has a reasonable expectation of privacy, regardless of whether the other person is in a public or private place;

(2) photographs or by videotape or other electronic means records, broadcasts, or transmits a visual image of another person in a place in which the other person has a reasonable expectation of privacy; or

(3) Makes no change to this subdivision.

Deletes existing text providing that a person commits an offense if the person photographs or by videotape or other electronic means records, broadcasts, or transmits a visual image of another at a location that is not a bathroom or private dressing room, without the other person's consent, and with intent to arouse or gratify the sexual desire of any person.

Deletes existing text providing a person commits an offense if the person photographs or by videotape or other electronic means records, broadcasts, or transmits a visual image of that another at a location that is a bathroom or private dressing room, without the other person's consent, and with intent to invade the privacy of the other person, or arouse or gratify the sexual desire of any person.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2015.