

By: Miller of Comal

H.B. No. 3196

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution of the offense of improper photography or visual recording.

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

SECTION 1. Sections 21.15(a) and (b), Penal Code, are amended to read as follows:

(a) In this section:

(1) "Promote" has the meaning assigned by Section 43.21.

(2) "Sexual or other intimate parts," means the human genitals, anus, buttocks, pubic area or any portion of the female breast below a point immediately above the ~~tip~~tip of the areola, whether naked or covered by clothing or undergarments.

(3) A person commits an offense if the person intentionally or knowingly photographs, videos, or by other electronic means records, broadcasts, or transmits a visual image of the sexual or other intimate parts of another person or another person engaged sexual conduct, without that person's effective consent and when a reasonable person would believe that the person's sexual or other intimate parts or sexual conduct would not be visible to the public.

(a) An act described above is presumed to be without effective consent as defined by Section 22.011(b)(1), (2), (3), (4), (5), (6), (7), and (8) or if it is accomplished by:

1           1. Conduct which is hidden or conducted secretly, or  
2 an attempt thereof;

3           2. Conduct which Uses equipment such as telephoto lens  
4 which allows the recording of the sexual or other intimate parts or  
5 another person's sexual conduct when such would not ordinarily be  
6 visible to the public;

7           3. Deception, including but not limited to  
8 misrepresenting how the photograph, video, or electronic record  
9 will be used or disseminated; or

10          (b) Conduct directed towards a child as defined by Section  
11 [43.251\(a\)\(1\)](#).

12          (c) An offense under this section is a state jail felony,  
13 except that the offense is a felony of the third degree if it is  
14 shown on the trial of the offense that the victim was younger than  
15 18 years of age at the time of the commission of the offense.

16          (d) If conduct that constitutes an offense under this  
17 section also constitutes an offense under any other law, the actor  
18 may be prosecuted under this section, the other law, or both.

19          SECTION 2. The change in law made by this Act applies only  
20 to an offense committed on or after the effective date of this Act.

21          SECTION 3. This Act takes effect September 1, 2015.