

By: Campbell

S.B. No. 1446

A BILL TO BE ENTITLED

AN ACT

1
2 Relating to the prosecution of the offense of improper photography
3 or visual recording.

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

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

7 (a) In this section, ~~"promote" has the meaning assigned by~~
8 ~~Section 43.21.~~ "sexual or other intimate parts," means the human
9 genitals, anus, buttocks, pubic area, or any portion of the female
10 breast below the top of the areola, whether naked or covered by
11 clothing or undergarments.

12 (b) A person commits an offense if the person~~+~~

13 ~~(1) photographs or by videotape or other electronic~~
14 ~~means records, broadcasts, or transmits a visual image of another~~
15 ~~at a location that is not a bathroom or private dressing room~~+~~~~

16 ~~(A) without the other person's consent, and~~

17 ~~(B) with intent to arouse or gratify the sexual~~
18 ~~desire of any person~~;~~~~

19 ~~(2) photographs or by videotape or other electronic~~
20 ~~means records, broadcasts, or transmits a visual image of another~~
21 ~~at a location that is a bathroom or private dressing room~~+~~~~

22 ~~(A) without the other person's consent, and~~

23 ~~(B) with intent to:~~

24 ~~(i) invade the privacy of the other person~~;~~~~

1 ~~or~~

2 ~~(ii) arouse or gratify the sexual desire of~~
3 ~~any person; or~~

4 ~~(3) knowing the character and content of the~~
5 ~~photograph, recording, broadcast, or transmission, promotes a~~
6 ~~photograph, recording, broadcast, or transmission described by~~
7 ~~Subdivision (1) or (2).~~ intentionally or knowingly photographs,
8 videos, or by other electronic means records, broadcasts, or
9 transmits a visual image of the sexual or other intimate parts of
10 another person or another person engaged sexual conduct, without
11 that person's effective consent and when a reasonable person would
12 believe that the person's sexual or other intimate parts or sexual
13 conduct would not be visible to the public.

14 (c) An act described above is presumed to be without
15 effective consent as defined by Section 22.011(b)(1), (2), (3),
16 (4), (5), (6), (7), and (8) or if it is accomplished by:

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

19 2. Conduct which uses equipment such as telephoto
20 lens which allows the recording of the sexual or other intimate
21 parts or another person's sexual conduct when such would not
22 ordinarily be visible to the public;

23 3. Deception, including but not limited to
24 misrepresenting how the photograph, video, or electronic record
25 will be used or disseminated; or

26 4. Conduct directed towards a child as defined by
27 Section 43.251(a)(1).

1 ~~(e)~~(d) An offense under this section is a state jail felony~~.,~~
2 except that the offense is a felony of the third degree if it is
3 shown on the trial of the offense that the victim was younger than
4 18 years of age at the time of the commission of the offense.

5 ~~(d)~~(e) If conduct that constitutes an offense under this
6 section also constitutes an offense under any other law, the actor
7 may be prosecuted under this section ~~or the other law.,~~ the other
8 law, or both.

9 ~~(e)~~ For purposes of Subsection (b)(2), a sign or signs
10 ~~posted indicating that the person is being photographed or that a~~
11 ~~visual image of the person is being recorded, broadcast, or~~
12 ~~transmitted is not sufficient to establish the person's consent~~
13 ~~under that subdivision.~~

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

16 SECTION 3. This Act shall take effect September 1, 2015