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By:  González of El Paso H.B. No. 98

A BILL TO BE ENTITLED

AN ACT

relating to civil and criminal liability for the unlawful disclosure of intimate visual material.

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

SECTION 1.  Section 98B.002, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 98B.002.  LIABILITY FOR UNLAWFUL DISCLOSURE OR PROMOTION OF CERTAIN INTIMATE VISUAL MATERIAL. (a) A defendant is liable, as provided by this chapter, to a person depicted in intimate visual material for damages arising from the disclosure of the material if:

(1)  the defendant discloses the intimate visual material without the effective consent of the depicted person and with the intent to harass, annoy, alarm, abuse, torment, or embarrass that person;

(2)  the defendant knows or has reason to believe that the intimate visual material was obtained by the defendant or created under circumstances in which the depicted person had a reasonable expectation that the material would remain private;

(3)  the disclosure of the intimate visual material causes harm to the depicted person; and

(4)  the disclosure of the intimate visual material reveals the identity of the depicted person in any manner, including through:

(A)  any accompanying or subsequent information or material related to the intimate visual material; or

(B)  information or material provided by a third party in response to the disclosure of the intimate visual material.

(b)  A defendant is liable, as provided by this chapter, to a person depicted in intimate visual material for damages arising from the promotion of the material if, knowing the character and content of the material and with the intent to harass, annoy, alarm, abuse, torment, or embarrass the depicted person, the defendant promotes intimate visual material described by Subsection (a) on an Internet website or other forum for publication that is owned or operated by the defendant.

SECTION 2.  Sections 21.16(b) and (d), Penal Code, are amended to read as follows:

(b)  A person commits an offense if:

(1)  without the effective consent of the depicted person and with the intent to harass, annoy, alarm, abuse, torment, or embarrass that person, the person [~~intentionally~~] discloses visual material depicting another person with the person's intimate parts exposed or engaged in sexual conduct;

(2)  the person knows or has reason to believe that the visual material was obtained by the person or created under circumstances in which the depicted person had a reasonable expectation that the visual material would remain private;

(3)  the disclosure of the visual material causes harm to the depicted person; and

(4)  the disclosure of the visual material reveals the identity of the depicted person in any manner, including through:

(A)  any accompanying or subsequent information or material related to the visual material; or

(B)  information or material provided by a third party in response to the disclosure of the visual material.

(d)  A person commits an offense if, knowing the character and content of the visual material and with the intent to harass, annoy, alarm, abuse, torment, or embarrass the depicted person, the person promotes visual material described by Subsection (b) on an Internet website or other forum for publication that is owned or operated by the person.

SECTION 3.  (a) Section 98B.002, Civil Practice and Remedies Code, as amended by this Act, applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrues before the effective date of this Act is governed by the law applicable to the cause of action immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(b)  Section 21.16, Penal Code, as amended by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this subsection, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 4.  This Act takes effect September 1, 2019.