

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:

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

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

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

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

16 (b) A person commits an offense if:

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

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

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

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

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

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

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

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

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

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