By:  Miles S.B. No. 1691

A BILL TO BE ENTITLED

AN ACT

relating to civil and criminal liability for doxing; creating an offense.

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

SECTION 1.  Chapter 22, Penal Code, is amended by adding

Section 22.13 to read as follows:

Sec. 22.13  DOXING. (a) A person commits an offense if:

(1)  the person intentionally posts another person's private personal information without consent of the person whose information is posted;

(2)  the information is posted:

(A)  with the intent to promote or assist in the commission of an offense that would cause the person whose information is posted to suffer death, bodily injury, or stalking, under Section 42.072; or,

(B)  with the intent that the information would be used to threaten harm or to harass any person and with reckless disregard that the posting would be reasonably likely to incite an attempt to cause the person to suffer death, bodily injury, or stalking, under Section 42.072; and,

(3)  the posting of the information:

(A)  is conducted with knowledge that the information will be used in the commission of an offense that would cause harm to the person whose information is posted or to a close relation to that person;

(B)  would cause a reasonable person to suffer significant economic injury or mental anguish or to fear serious bodily injury or death for oneself or for a close relation to oneself; or

(C)  causes the person whose information is posted to suffer a substantial life disruption.

(b)  An offense under paragraph a(3)(A) or (a)(3)(B) is a Class A misdemeanor, except that the offense is a State Jail Felony if an individual suffers death, physical injury, mental anguish or significant economic injury as a proximate result of conduct arising out of the posting.

(c)  An offense under Subsection a(3)(C) is a Class B misdemeanor.

(d)  If in the trial of an offense under this section, an affirmative finding is made that the offense was committed because of bias or prejudice, under Article 42.014, Code of Criminal Procedure, the punishment for the offense is increased as provided under Section 12.47.

(e)  It is not an offense under this section for a person to provide another person's private personal information in connection with:

(1)  the reporting of information about criminal activity to a peace officer or an employee of a law enforcement agency, and the person making the report reasonably believes the information to be true;

(2)  any lawfully authorized investigative, protective, or intelligence activity of any law enforcement agency or of an intelligence agency of the United States; or

(3)  lawful and constitutionally protected activity as it pertains to speech, assembly or petition.

(f)  Nothing in this section shall be construed in any manner to:

(1)  conflict with 47 U.S.C. § 230 of the Communication Decency Act;

(2)  conflict with 42 U.S.C. § 1983 of the Civil Rights Act; or,

(3)  prohibit any activity protected under the Constitution of the United States or the Texas Constitution.

(g)  If conduct constituting an offense under this section also constitutes an offense under another section of this code, the actor may be prosecuted under either section or both sections.

(h)  In this section:

(1)  "Close relation" means a member of the person's family or household or an individual with whom the person has a dating relationship, or any other individual for whom the release of the private personal information could reasonably lead to an offense being committed against that individual, including coworkers or persons at the residence of the person who is the subject of the information.

(2)  "Dating relationship," "family," "household," and "member of a household" have the meanings assigned by Chapter 71, Family Code.

(2)  "Electronic communication" has the meaning assigned by Section 42.07;

(3)  "Mental anguish" means emotional distress or emotional suffering as evidenced by anxiety, fear, torment or apprehension that may or may not result in a physical manifestation of mental anguish or a mental health diagnosis. The mental anguish must be protracted and not merely trivial or transitory;

(4)  "Private personal information" means:

(A)  "Personal identifying information" as that term is defined in Section 521.002(a)(1), Business and Commerce Code;

(B)  "Sensitive personal information" as that term is defined in Section 521.002(a)(2), Business and Commerce Code;

(C)  information that alone or in conjunction with other information identifies an individual and reveals the individual's race, color, disability, religion, sex, national origin, or age, or includes any sexually intimate visual depiction of the individual; and,

(D)  usernames, passwords, or any other information that provides access to a person's communications by means of teleconferencing, video-teleconferencing, or any other form of digital meeting room.

(5)  "Post" means to circulate, deliver, distribute, disseminate, transmit or otherwise make available to two or more persons through electronic communication;

(6)  "Substantial life disruption" means that a person significantly modifies that person's actions or routines in an attempt to avoid the actor or because of the actor's course of conduct, such as changing a phone number, changing an electronic mail address, deleting personal electronic accounts or significantly decreasing use of the internet, moving from an established residence, changing daily routines, changing routes to and from work, changing employment or work schedule or losing time from work or a job.

SECTION 2.  Chapter 13, Code of Criminal Procedure, is amended by adding Article 13.39 to read as follows:

Art. 13.39.  DOXING. The offense of doxing may be prosecuted in any county in which an element of the offense occurred, or in which a person resides who is the subject of the private personal information posted as an element of the offense.

SECTION 3.  Title 5, Civil Practice and Remedies Code, is amended by adding Chapter 98C to read as follows:

CHAPTER 98C. LIABILITY FOR DOXING

Sec 98C.001. DEFINITIONS. In this chapter, "private personal information" has the meaning assigned by Section 22.13(h), Penal Code.

Sec. 98C.002.  LIABILITY. (a) A defendant who engages in doxing, as that offense is defined under Section 22.13, Penal Code, is liable, as provided by this chapter, for damages arising from the posting of private personal information by the defendant, as described by that section, to the person whose information was posted.

Sec. 98C.003.  DAMAGES. (a) A claimant who prevails in a suit under this chapter shall be awarded:

(1)  actual damages, including damages for mental anguish even if an injury other than mental anguish is not shown;

(2)  court costs; and

(3)  reasonable attorney's fees.

(b)  In addition to an award under Subsection (a), a claimant who prevails in a suit under this chapter may recover exemplary damages.

Sec. 98C.003.  INJUNCTIVE RELIEF. A court in which a suit is brought under this chapter, on the motion of a party, may issue a temporary restraining order or a temporary or permanent injunction to restrain and prevent the disclosure or continued disclosure of a party's private personal information.

Sec. 98C.004.  CAUSE OF ACTION CUMULATIVE. The cause of action created by this chapter is cumulative of any other remedy provided by common law or statute.

Sec. 98C.005.  JURISDICTION. A court has personal jurisdiction over a defendant in a suit brought under this chapter if:

(1)  the defendant resides in this state;

(2)  the person whose private personal information was posted resides in this state;

(3)  the private personal information is stored on a server that is located in this state; or

(4)  the private personal information is available for view in this state.

Sec. 98C.006.  JOINT AND SEVERAL LIABILITY. A person who is found liable under this chapter is jointly and severally liable with any other defendant for the entire amount of damages resulting in whole or in part from the posting of private personal information by the defendant.

Sec. 98C.007. LIBERAL CONSTRUCTION AND APPLICATION; CERTAIN CONDUCT EXCEPTED. This chapter shall be liberally construed and applied to promote its underlying purpose to protect persons from, and provide adequate remedies to victims of, doxing.

SECTION 4.  This Act takes effect September 1, 2021.