

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

1 relation to that person;

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

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

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

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

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

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

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

27 (2) any lawfully authorized investigative,

1 protective, or intelligence activity of any law enforcement agency
2 or of an intelligence agency of the United States; or

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

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

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

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

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

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

16 (h) In this section:

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

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

27 (2) "Electronic communication" has the meaning

1 assigned by Section 42.07;

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

7 (4) "Private personal information" means:

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

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

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

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

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

26 (6) "Substantial life disruption" means that a person
27 significantly modifies that person's actions or routines in an

1 attempt to avoid the actor or because of the actor's course of
2 conduct, such as changing a phone number, changing an electronic
3 mail address, deleting personal electronic accounts or
4 significantly decreasing use of the internet, moving from an
5 established residence, changing daily routines, changing routes to
6 and from work, changing employment or work schedule or losing time
7 from work or a job.

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

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

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

16 CHAPTER 98C. LIABILITY FOR DOXING

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

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

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

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

3 (2) court costs; and

4 (3) reasonable attorney's fees.

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

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

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

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

19 (1) the defendant resides in this state;

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

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

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

26 Sec. 98C.006. JOINT AND SEVERAL LIABILITY. A person who is
27 found liable under this chapter is jointly and severally liable

1 with any other defendant for the entire amount of damages resulting
2 in whole or in part from the posting of private personal information
3 by the defendant.

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

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