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| BILL ANALYSIS |

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| S.B. 997 |
| By: West |
| Judiciary & Civil Jurisprudence |
| Committee Report (Unamended) |

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| **BACKGROUND AND PURPOSE** In today's world, when a person dies at the scene of a crime or accident there is always a chance that gruesome photographs of the person's remains may wind up in the wrong hands or even be sold for the purpose of publication by a news organization. In Texas, there are no specific laws that prohibit the unauthorized disclosure of such photographs, except for certain narrowly crafted provisions of state public information law regarding the confidentiality of sensitive crime scene images. Further, state public information law does not address or contemplate disclosure by a government employee texting, without authorization, a crime scene photograph to an unauthorized third party or to a member of the media. S.B. 997 seeks to close this gap in state law by prohibiting an individual from publishing a photograph of human remains that the individual obtained while acting within the course and scope of the individual's duties as an officer or employee of the state or a political subdivision of the state and providing for a related civil penalty. |
| **CRIMINAL JUSTICE IMPACT**It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision. |
| **RULEMAKING AUTHORITY** It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution. |
| **ANALYSIS** S.B. 997 amends the Health and Safety Code to prohibit an individual from publishing a photograph of human remains that the individual obtained while acting within the course and scope of the individual's duties as an officer or employee of the state or a political subdivision of the state. The bill defines "human remains" by reference as the body of a decedent and establishes that "publish" means to display, present, or release a photograph to an unauthorized person, or to cause a photograph to be displayed, presented, or released to an unauthorized person. For purposes of the prohibition, a photograph is considered to have been published under the following circumstances:* the photograph is displayed to an unauthorized person;
* the photograph is released to an unauthorized person by any delivery method, including text message, email, or facsimile;
* the photograph is posted on a social media platform; or
* the photograph is sold to a news publication.

S.B. 997 makes an individual who violates the bill's photograph publication prohibition liable for a civil penalty in an amount capped at $10,000 for each violation. The bill authorizes the attorney general or the appropriate county or district attorney to sue to collect the civil penalty and to recover attorney's fees and costs incurred in obtaining relief. The bill establishes the following as a defense to liability for the civil penalty: * the individual published the photograph of human remains for an official law enforcement, scientific, educational, research, or medical purpose, or as part of a civil proceeding; or
* the photograph was published in a documentary film or television show with the approval of the chief medical examiner, coroner, or commissioners court, as applicable, and the remains are unidentifiable.

The bill prohibits a defendant from asserting official immunity as a defense in an action brought under these provisions of the bill. |
| **EFFECTIVE DATE** September 1, 2023. |