

BILL ANALYSIS

S.B. 1361
By: Huffman
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

With the rapid expansion of artificial intelligence, technology is now used to intentionally deceive and cause harm to others. Utilizing artificial intelligence and computer software to create "deep fake" pornography has become concerning to many. Deep fake pornography occurs when the likeness of one person is digitally altered to look like someone else and is inserted into a video in which sexual conduct is occurring or intimate parts are exposed. S.B. 1361 seeks to address this issue by making it a Class A misdemeanor offense for a person to knowingly produce or distribute by electronic means a deep fake video that appears to depict a person, without their effective consent, with their intimate parts exposed or engaged in sexual conduct.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes 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. 1361 amends the Penal Code to create a Class A misdemeanor offense of unlawful production or distribution of certain sexually explicit videos for a person who, without the effective consent of the person appearing to be depicted, knowingly produces or distributes by electronic means a deep fake video that appears to depict the person with the person's intimate parts exposed or engaged in sexual conduct. The bill authorizes the actor to be prosecuted under this provision or another law if conduct that constitutes an offense under the bill also constitutes an offense under another law.

S.B. 1361 defines the following terms for purposes of its provisions:

- "deep fake video" as a video, created with the intent to deceive, that appears to depict a real person performing an action that did not occur in reality;
- "intimate parts" as the naked genitals, pubic area, anus, buttocks, or female nipple of a person; and
- "sexual conduct" as sexual contact, actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse.

EFFECTIVE DATE

September 1, 2023.