88R7732 JRR-D

By:  Guillen H.B. No. 1896

A BILL TO BE ENTITLED

AN ACT

relating to civil and criminal liability for the unlawful disclosure or promotion 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 by amending Subsection (a) and adding Subsection (c) to read as follows:

(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 harm that person;

(2)  either:

(A)  at the time of the disclosure, 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; or

(B)  the intimate visual material was created, adapted, or modified as described by Subsection (c);

(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:

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

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

(c)  For purposes of conduct for which a defendant is liable under Subsection (a) or (b), intimate visual material to which that conduct applies includes a depiction of a person:

(1)  who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature; and

(2)  whose image was used in creating, adapting, or modifying the intimate visual material, including computer-generated intimate visual material that was created, adapted, or modified using an artificial intelligence application or other computer software.

SECTION 2.  Section 21.16, Penal Code, is amended by amending Subsection (b) and adding Subsection (d-1) to read as follows:

(b)  A person commits an offense if:

(1)  without the effective consent of the depicted person and with the intent to harm that person, the person discloses visual material depicting another person with the person's intimate parts exposed or engaged in sexual conduct;

(2)  either:

(A)  at the time of the disclosure, the person knows or has reason to believe that the visual material was obtained by the person or created under circumstances in which the depicted person had a reasonable expectation that the visual material would remain private; or

(B)  the visual material was created, adapted, or modified as described by Subsection (d-1);

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

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

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

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

(d-1)  For purposes of conduct prohibited under Subsection (b), (c), or (d), visual material to which that conduct applies includes a depiction of a person:

(1)  who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature; and

(2)  whose image was used in creating, adapting, or modifying the visual material, including computer-generated visual material that was created, adapted, or modified using an artificial intelligence application or other computer software.

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

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

SECTION 4.  This Act takes effect September 1, 2023.