88R8258 MZM-D

By:  West S.B. No. 997

A BILL TO BE ENTITLED

AN ACT

relating to the publication of certain photographs of human remains by first responders, coroners, medical examiners, and certain other employees for a purpose other than an official purpose; creating a criminal offense.

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

SECTION 1.  This Act shall be known as the Kobe and Gianna Bryant Act.

SECTION 2.  Chapter 39, Penal Code, is amended by adding Section 39.08 to read as follows:

Sec. 39.08.  PROHIBITION ON PUBLISHING CERTAIN PHOTOGRAPHS DEPICTING HUMAN REMAINS. (a) In this section:

(1)  "First responder" has the meaning assigned by Section 421.095, Government Code.

(2)  "Human remains" has the meaning assigned by Section 711.001, Health and Safety Code.

(3)  "Publish" means to display, present, or release a photograph to another person, or to cause a photograph to be displayed, presented, or released to another person.

(b)  A person commits an offense if the person publishes a photograph of human remains that the person obtained while acting within the course and scope of the person's duties as a first responder, coroner, medical examiner, employee of a coroner's office, or employee of an office of a medical examiner.

(c)  It is a defense to prosecution under Subsection (b) that the person published the photograph of human remains for an official law enforcement or medical purpose.

(d)  For purposes of Subsection (b), a photograph is considered to have been published if the photograph is:

(1)  displayed to another person;

(2)  sent to another person by text message;

(3)  posted on a social media platform;

(4)  sold to a news publication; or

(5)  used in a movie or documentary.

(e)  An offense under this section is a state jail felony.

SECTION 3.  Title 5, Civil Practice and Remedies Code, is amended by adding Chapter 117 to read as follows:

CHAPTER 117. LIABILITY FOR PUBLICATION OF CERTAIN PHOTOGRAPHS BY FIRST RESPONDER OR MEDICAL EXAMINER

Sec. 117.001.  PUBLISHING PHOTOGRAPHS PORTRAYING HUMAN REMAINS. (a) A defendant is liable to a person's surviving spouse, child, or parent for damages or other relief arising from a violation of Section 39.08, Penal Code, in relation to the person.

(b)  A claimant who prevails in an action under Subsection (a) is entitled to recover reasonable attorney's fees and costs incurred in bringing the action.

(c)  A governmental unit is jointly and severally liable for damages arising from a violation of Section 39.08, Penal Code, by a person employed by the governmental unit.

(d)  A governmental unit's sovereign or governmental immunity to suit and from liability is waived to the extent of liability created by this section.

(e)  A first responder, coroner, medical examiner, employee of a coroner's office, or employee of an office of a medical examiner may not assert official immunity as a defense to liability under this section.

(f)  Damages awarded in an action brought under this section may not exceed $100,000.

SECTION 4.  Chapter 117, Civil Practice and Remedies Code, as added by this Act, applies only to a cause of action that accrues on or after the effective date of this Act.

SECTION 5.  This Act takes effect September 1, 2023.