

By: Guillen, Plesa

H.B. No. 1896

A BILL TO BE ENTITLED

1 AN ACT

2 relating to civil and criminal liability for the unlawful
3 disclosure or promotion of intimate visual material.

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

5 SECTION 1. Section 98B.002, Civil Practice and Remedies
6 Code, is amended by amending Subsection (a) and adding Subsection
7 (c) to read as follows:

8 (a) A defendant is liable, as provided by this chapter, to a
9 person depicted in intimate visual material for damages arising
10 from the disclosure of the material if:

11 (1) the defendant discloses the intimate visual
12 material without the effective consent of the depicted person and
13 with the intent to harm that person;

14 (2) either:

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

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

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

24 (4) the disclosure of the intimate visual material

1 reveals the identity of the depicted person in any manner,
2 including through:

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

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

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

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

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

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

22 (b) A person commits an offense if:

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

27 (2) either:

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

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

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

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

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

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

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

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

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

26 SECTION 3. (a) Section 98B.002, Civil Practice and
27 Remedies Code, as amended by this Act, applies only to a cause of

1 action that accrues on or after the effective date of this Act. A
2 cause of action that accrues before the effective date of this Act
3 is governed by the law applicable to the cause of action immediately
4 before the effective date of this Act, and that law is continued in
5 effect for that purpose.

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

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