

By: West

S.B. No. 997

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the publication of certain photographs of human remains  
3 by first responders, coroners, medical examiners, and certain other  
4 employees for a purpose other than an official purpose; creating a  
5 criminal offense.

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

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

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

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

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

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

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

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

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

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

6           (1) displayed to another person;

7           (2) sent to another person by text message;

8           (3) posted on a social media platform;

9           (4) sold to a news publication; or

10          (5) used in a movie or documentary.

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

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

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

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

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

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

26       (d) A governmental unit's sovereign or governmental  
27 immunity to suit and from liability is waived to the extent of

1 liability created by this section.

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

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

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

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