

## **BILL ANALYSIS**

C.S.H.B. 421  
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Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The author has informed the committee about the proliferation of digitally altered photos and videos that show people in sexually explicit situations when those situations did not occur. Many of these images are made using artificial intelligence (AI) or "deep fake" software. Much of this software does not require age verification or consent of the individual whose face and image are being used in the material. In fact, there has been a growing number of instances in which children have been victim to sexually explicit AI or deep fake photos created by their peers, as reported by NBC News and USA Today. Unfortunately, these instances negatively impact students' performance and well-being, even potentially leading to decreased school attendance. C.S.H.B. 421 seeks to address this issue by requiring the owner of a deep fake generator to verify the age of the person depicted in deep fake material before the material is created or generated and by establishing a private cause of action for victims of deep fake material.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change 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**

C.S.H.B. 421 amends the Business & Commerce Code to require the owner of a deep fake generator to verify, before the deep fake generator creates or generates explicit deep fake material, the age of the person apparently depicted by such material using a commercially reasonable age verification method. The bill prohibits the owner of a deep fake generator from allowing the deep fake generator to create or generate explicit deep fake material apparently depicting a person who is at least 18 years old without the person's written consent or apparently depicting a person who is younger than 18 years old.

C.S.H.B. 421 defines the following terms for purposes of its provisions:

- "deep fake generator" as an Internet website or application operating in Texas that allows a user to create or generate deep fake material using software provided by the website or application, but not including a separate platform on which deep fake material is posted, sent, or distributed;
- "deep fake material" as visual material, created with the intent to deceive, that appears to depict a real person performing an action that did not occur in reality; and
- "explicit deep fake material" as deep fake material that appears to depict a real person engaging in sexual conduct or other conduct resulting in the exposure of the person's intimate parts.

The bill defines "intimate parts," "sexual conduct," and "visual material" by reference to the Penal Code offense of unlawful disclosure or promotion of intimate visual material.

C.S.H.B. 421 does the following with regard to a private cause of action:

- authorizes a person in Texas apparently depicted by explicit deep fake material in violation of the bill's provisions, or the person's parent or guardian if the person is younger than 18 years old, to bring an action against the owner of a deep fake generator who violates those provisions;
- requires the following to be awarded to a person who prevails in such an action: court costs, reasonable attorney's fees, and actual damages, including damages for mental anguish;
- authorizes a person who prevails in such an action to recover exemplary damages in addition to those awards; and
- establishes that a cause of action under the bill's provisions is cumulative of any other remedy provided by common law or statute.

C.S.H.B. 421 applies only to a cause of action that accrues on or after the bill's effective date.

### **EFFECTIVE DATE**

September 1, 2025.

### **COMPARISON OF INTRODUCED AND SUBSTITUTE**

While C.S.H.B. 421 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute replaces the introduced version's requirement for a deep fake generator to verify the age of a person apparently depicted by explicit deep fake material using a commercially reasonable age verification method with a requirement for the owner of the deep fake generator to verify the age of such a person using such a method.

The substitute replaces the introduced version's prohibitions against a deep fake generator creating or generating explicit deep fake material apparently depicting a person who is at least 18 years old without the person's written consent or depicting a person who is younger than 18 years old with prohibitions against the owner of a deep fake generator allowing the deep fake generator to create or generate such material.

Whereas the introduced authorized an applicable person to bring an action against a deep fake generator who violates the bill's provisions, the substitute authorizes an applicable person to bring an action against the owner of a deep fake generator who violates the bill's provisions.