

BILL ANALYSIS

H.B. 449
By: González, Mary
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The bill author has informed the committee that many people have been affected by "deep fake" videos and images, which refer to highly convincing fake videos or images, or manipulated digital information, created with AI technology due to the realistic nature of the videos or images and the lack of consent required to have one of these videos or images created of another person. The 88th Legislature enacted S.B. 1361, which criminalized the production or distribution of sexually explicit deep fake videos without the effective consent of the person appearing to be depicted, but the legislation didn't criminalize sexually explicit images that are created without that person's consent, including minors. The bill author has informed the committee that school students have come forward with their experiences about how deep fake images have affected them, their mental health, and their ability to be productive in school. H.B. 449 seeks to protect Texans by including deep fake images in the scope of the conduct that constitutes the offense of unlawful production or distribution of certain sexually explicit videos.

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

H.B. 449 amends the Penal Code to expand the conduct that constitutes the offense of unlawful production or distribution of certain sexually explicit videos to include knowingly producing or distributing by electronic means a deep fake image that appears to depict a person with the person's intimate parts exposed or engaged in sexual conduct without the effective consent of the person appearing to be depicted. The bill reflects that change in the name of the offense and defines "deep fake image" as an image, created with the intent to deceive, that appears to depict a real person performing an action that did not occur in reality.

H.B. 449 applies only to an offense committed on or after the bill's effective date. An offense committed before the bill's effective date 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 these purposes, an offense was committed before the bill's effective date if any element of the offense occurred before that date.

EFFECTIVE DATE

September 1, 2025.