

## **BILL ANALYSIS**

C.S.S.B. 441  
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Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The bill sponsor has informed the committee that the misuse of artificial intelligence (AI) to create nonconsensual intimate visual materials, often called "deepfakes," has grown exponentially and that victims of the production, disclosure, or promotion of such material face severe emotional and reputational harm, compounded by the lack of clear legal remedies. The bill sponsor has further informed the committee that the issue escalates with platforms hosting "nudification" applications, which use AI to digitally undress photos without consent. C.S.S.B. 441 seeks to address the rise of the production, disclosure, and promotion of artificial intimate visual materials by providing victims with civil remedies and imposing penalties on individuals, websites, applications, and payment processors involved in producing, disclosing, or promoting such content without consent. The bill provides websites and platforms the opportunity to remove such material after receiving a request from the victim. Additionally, the bill prioritizes victim privacy through confidentiality measures and ensures a lengthy statute of limitations for pursuing justice. By modernizing existing laws, C.S.S.B. 441 aims to combat the misuse of AI in generating harmful, intimate visual materials.

### **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.S.B. 441 amends the Civil Practice and Remedies Code to make a defendant liable to a person depicted in artificial intimate visual material for damages arising from the production, solicitation, disclosure, or promotion of the material if the following occurs:

- the defendant produces, solicits, discloses, or promotes the artificial intimate visual material without the effective consent of the depicted person and with the intent to harm that person;
- the production, solicitation, disclosure, or promotion of the artificial intimate visual material causes harm to the depicted person; and
- the production, solicitation, disclosure, or promotion of the artificial intimate visual material reveals the identity of the depicted person in any manner, including through:
  - any accompanying or subsequent information or material related to the artificial intimate visual material; or
  - information or material provided by a third party in response to the disclosure of the artificial intimate visual material.

The bill defines "artificial intimate visual material" as computer-generated intimate visual material that was produced, adapted, or modified using an artificial intelligence application or other computer software in which the person is recognizable as an actual person by a person's face, likeness, voice, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature which, when viewed by a reasonable person, is indistinguishable from the person depicted.

C.S.S.B. 441 makes a person who owns a website or application, including a social media platform, which is defined by reference to Business & Commerce Code provisions, on which artificial intimate visual material is produced or disclosed in exchange for payment or a publicly accessible nudification application from which the material is produced, and any person who processes or facilitates payment for the production or disclosure of the material through the website or application, liable to a person depicted in the material for damages arising from the production or disclosure of the material if the person knows or recklessly disregards that the depicted person did not consent to the production or disclosure of the material. The bill defines "nudification application" as an artificial intelligence application that is primarily designed and marketed for the purpose of producing artificial intimate visual material and "consent" as affirmative, conscious, and voluntary agreement, made by a person freely and without coercion, fraud, or misrepresentation. The bill makes a person who owns a website or application, including a social media platform, on which artificial intimate visual material is disclosed liable to the person depicted in the material for damages arising from the disclosure of the material if the person depicted requests the website or application to remove the material and the person who owns the website or application fails to do the following:

- notify the person making the request that the owner has received the request within 24 hours of receiving the request; or
- remove the material within 72 hours of receiving the request and make reasonable efforts to identify and remove any known identical copies of such material.

C.S.S.B. 441 requires a person who owns a website or application, including a social media platform, to make the following available on the website or application:

- an easily accessible system that allows a person to submit a request for the removal of artificial intimate visual material and track the status of the request; and
- a clear and conspicuous notice, which may be provided through a clear and conspicuous link to another web page or disclosure, of the established removal process that:
  - is written in plain language that is easy to read; and
  - provides information regarding the responsibilities of the person who owns the website or application under the bill's provisions, including a description of how a person can submit a request for the removal of artificial intimate visual material and how to track the status of the request.

The bill establishes that a violation of the bill's requirements for a person who owns such a website or application is a deceptive trade practice actionable under the Deceptive Trade Practices-Consumer Protection Act. The bill authorizes the attorney general to investigate and bring an action for injunctive relief against a person who repeatedly violates those provisions and, if the attorney general prevails in the action, to recover costs and attorney's fees.

C.S.S.B. 441 requires a court to take the following actions in a suit brought under provisions relating to unlawful disclosure or promotion of intimate visual material:

- make it known to the claimant as early as possible in the proceedings of the suit that the claimant may use a confidential identity in relation to the suit;
- allow a claimant to use a confidential identity in all petitions, filings, and other documents presented to the court;
- use the confidential identity in all of the court's proceedings and records relating to the suit, including any appellate proceedings; and
- maintain the records relating to the suit in a manner that protects the confidentiality of the claimant.

The bill defines "confidential identity" as the use of a pseudonym and the absence of any other identifying information, including address, telephone number, and social security number.

C.S.S.B. 441 entitles only the following persons to know the true identifying information about the claimant in such a suit:

- the judge;
- a party to the suit;
- the attorney representing a party to the suit; and
- a person authorized by a written order of a court specific to that person.

The bill requires a court to order that a person entitled to know the true identifying information about the claimant may not divulge that information to anyone without a written order of the court and to hold a person who violates the order in contempt. Notwithstanding the rules of civil procedure, the bill prohibits the supreme court from amending or adopting rules in conflict with these bill provisions relating to confidential identity in certain actions. The bill establishes that a claimant is not required to use a confidential identity.

C.S.S.B. 441 requires a person to bring such a suit not later than 10 years after the later of the date on which the person depicted in the intimate visual material that is the basis for the suit reasonably discovers the intimate visual material or the person depicted in the intimate visual material that is the basis for the suit turns 18 years of age.

C.S.S.B. 441 applies only to a cause of action that accrues on or after the bill's effective date.

### **EFFECTIVE DATE**

September 1, 2025.

### **COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE**

While C.S.S.B. 441 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

Both versions provide for the definition of "artificial intimate visual material." However, the substitute revises the definition to include a person's voice as a recognizable distinguishing characteristic and to specify that a recognizable feature is a feature which, when viewed by a reasonable person, is indistinguishable from the person depicted in the material. The substitute includes a provision defining "consent," whereas the engrossed did not define that term.

Both the engrossed and the substitute make liable the owner of a website, including a social media platform, or a publicly accessible nudification application and a person who processes or facilitates payments. However, the substitute also makes liable a person who owns an application on which artificial intimate visual material is produced or disclosed in exchange for payment, whereas the engrossed did not make such a person explicitly liable. With respect to the conditions under which liability is established by both the engrossed and the substitute if the person depicted requests the removal of the material and the website fails to take certain action:

- the substitute specifies that the conditions are applicable to the person who owns the website or applicable application, whereas the engrossed did not make that specification; and
- with respect to liability established if the material is not removed within 72 hours of the receipt of a request for removal, the substitute further establishes liability if there is a failure to make reasonable efforts to identify and remove any known identical copies of such material.

The substitute includes the following provisions absent from the engrossed:

- a provision requiring a person who owns such a website or application to make available on the website or application a clear and conspicuous notice containing certain information regarding the removal process of artificial intimate visual material;
- a provision establishing that a violation of the bill's requirements for a person who owns such a website or application is a deceptive trade practice actionable under the Deceptive Trade Practices-Consumer Protection Act; and
- a provision authorizing the attorney general to investigate and bring an action for injunctive relief against a person who repeatedly violates those provisions and, if the attorney general prevails in the action, to recover costs and attorney's fees.