

BILL ANALYSIS

Senate Research Center
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S.B. 441
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The misuse of AI to create nonconsensual intimate visual materials, often called "deepfakes," has grown exponentially, with reports indicating that 96% of deepfake videos online are pornographic, targeting women disproportionately. In 2023, cybersecurity researchers found that searches for "deepfake pornography" increased by 900% within two years. Victims face severe emotional and reputational harm, compounded by the lack of clear legal remedies.

The issue escalates with platforms hosting nudification applications, which use AI to digitally undress photos without consent. Current laws fail to address these AI-specific harms adequately. S.B. 441 builds on prior initiatives, which criminalizes nonconsensual disclosure of intimate images but does not account for AI-generated content. This bill closes that gap by addressing the unique challenges of AI misuse in creating and distributing intimate visual materials.

S.B. 441 addresses the rise of nonconsensual artificial intimate visual material created using AI by expanding civil liability laws. It imposes penalties on individuals, websites, and payment processors involved in producing or distributing such content without consent. The bill prioritizes victim privacy through confidentiality measures and ensures a lengthy statute of limitations for pursuing justice. By modernizing existing laws, S.B. 441 aims to combat the misuse of AI in generating harmful, intimate visual materials.

As proposed, S.B. 441 amends current law relating to civil liability for the production, solicitation, disclosure, or promotion of artificial intimate visual material.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Chapter 98B, Civil Practice and Remedies Code, to read as follows:

CHAPTER 98B. UNLAWFUL PRODUCTION, SOLICITATION, DISCLOSURE, OR PROMOTION OF INTIMATE VISUAL MATERIAL

SECTION 2. Amends Section 98B.001, Civil Practice and Remedies Code, by amending Subdivision (1) and adding Subdivisions (1-a), (3), and (4) to define "artificial intimate visual material," "nudification application," and "social media platform."

SECTION 3. Amends Chapter 98B, Civil Practice and Remedies Code, by adding Sections 98B.0021, 98B.0022, 98B.008, and 98B.009, as follows:

Sec. 98B.0021. LIABILITY FOR UNLAWFUL PRODUCTION, SOLICITATION, DISCLOSURE, OR PROMOTION OF CERTAIN ARTIFICIAL INTIMATE VISUAL MATERIAL. Provides that a defendant is liable, as provided by Chapter 98B (Unlawful Disclosure or Promotion of Intimate Visual Material), to a person depicted in artificial

intimate visual material for damages arising from the production, solicitation, disclosure, or promotion of the material if:

- (1) 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;
- (2) the production, solicitation, disclosure, or promotion of the artificial intimate visual material causes harm to the depicted person; and
- (3) 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.

Sec. 98B.0022. **LIABILITY OF OWNERS OF INTERNET WEBSITES AND ARTIFICIAL INTELLIGENCE APPLICATIONS AND PAYMENT PROCESSORS.** (a) Provides that a person who owns an Internet website, including a social media platform, 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, is liable, as provided by this chapter, 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.

- (b) Provides that a person who owns an Internet website, including a social media platform, on which artificial intimate visual material is disclosed is liable, as provided by this chapter, to the person depicted in the material for damages arising from the disclosure of the material if the person depicted requests the website to remove the material and the website fails to do so within 72 hours after the request is made.

Sec. 98B.008. **CONFIDENTIAL IDENTITY IN CERTAIN ACTIONS.** (a) Defines "confidential identity."

- (b) Requires the court, except as otherwise provided by this section, in a suit brought under this chapter, to make it known to the claimant as early as possible in the proceedings of the suit that the claimant is authorized to 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.
- (c) Provides that, in a suit brought under this chapter, only certain persons are entitled to know the true identifying information about the claimant.
- (d) Requires the court to order that a person entitled to know the true identifying information under Subsection (c) is prohibited from divulging that information to anyone without a written order of the court. Requires a court to hold a person who violates the order in contempt.
- (e) Prohibits the Supreme Court of Texas, notwithstanding Section 22.004 (Rules of Civil Procedure), Government Code, from amending or adopting rules in conflict with this section.

(f) Provides that a claimant is not required to use a confidential identity as provided by this section.

Sec. 98B.009. STATUTE OF LIMITATIONS. Requires a person to bring suit under this chapter 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.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2025.