

BILL ANALYSIS

Senate Research Center

S.B. 2373
By: Johnson
Criminal Justice
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Artificial intelligence (AI) is increasingly being exploited for financial scams, particularly targeting vulnerable populations such as seniors and individuals with disabilities. Fraudsters use AI-generated media, including deepfake videos, voice cloning, and phishing communications, to deceive vulnerable victims into transferring money or providing sensitive personal information to their detriment.

Current Texas law criminalizes financial exploitation and fraud through the Penal Code in Section 32.51 (Fraudulent Use or Possession of Identifying Information) and Section 33.07 (Online Impersonation). However, these laws do not explicitly cover AI-generated scams. This legal gap hinders prosecution to protect the most vulnerable Texans, lacks recovery provisions for victims, and enables the proliferation of AI-driven fraud.

S.B. 2373 amends Title 4 of the Civil Practice & Remedies Code by defining artificial intelligence and AI-generated media, establishes a civil cause of action for financial exploitation through AI-generated scams, and allows victims to further recover lost damages and attorney's fees. The bill also introduces civil penalties for offenders, provides confidential identity protection for victims of AI scams, and creates a tiered criminal offense, ranging from a Class B misdemeanor to a first-degree felony based on the amount exploited.

Stakeholders who provided specific feedback have been listed with the following committee substitute changes:

1. Allow for prosecution to indict on multiple charges. Remove both instances of: "If conduct constituting an offense under this section also constitutes an offense under another section of this code, the actor may be prosecuted under either section or under both sections, except that the actor may not be prosecuted under both this section and Section 32.55."

a. In Section 32.56(e).

Recommendation from: Dallas County District Attorney

2. Add venue provision for Travis County for the Office of the Attorney General (OAG). Add venue provision for Travis County or district court for OAG's authority.

a. In Section 100B.003.

Recommendation from: OAG.

3. Remove instances of "recording" from bill language. Amend the definition for "artificially generated media" to replace "recording" with "file" since artificially generated media are explicitly not recordings.

a. In Section 100B.001(2)

Recommendation from: American Association of Retired Persons (AARP)

4. Add "explicit" and "implicit" input objectives to artificial intelligence (AI) definition. Both explicit and implicit input prompts are liable if the result is to exploit or defraud a potential victim.

a. In Section 100B.001 (1).

Recommendation from: AARP and Organization for Economic Co-operation and Development (OECD)

5. Remove ALL defense to liability/prosecution clauses, including: If AI phishing scam was a part of police investigation and if there was a visual or auditory disclosure of AI.

a. In Section 100B.002(a);

b. In Section 100B.003(a); and

c. In Section 32.56(b).

Recommendation from: AARP, Harris County District Attorney, and Dallas County District Attorney

6. Add "intentional" to "knowing dissemination" as part of burden of proof to show intent. a. In Section 100B.002(a); and b. In Section 100B.003(a).

Recommendation from: Texas and South (Telecomm Provider)

7. Add language that removes liability from a telecommunications provider if user-generated content. Add in multiple sections the following clause: "(e) Nothing in this section imposes liability on the provider of an interactive computer service, as defined in 47 U.S.C. Sec. 230 (f)(2); an information service, as defined in 47 U.S.C. Sec. 153; or a telecommunications service, as defined in 47 U.S.C. Sec. 153, for content provided by another person."

a. In Section 100B.002;

b. In Section 100B.003; and

c. In Section 32.56

Recommendation from: Texas and South (Telecomm Provider)

S.B. 2373 amends current law relating to financial exploitation or financial abuse using artificially generated media or phishing communications, provides a civil penalty, and creates a criminal offense.

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 Title 4, Civil Practice and Remedies Code, by adding Chapter 100B, as follows:

CHAPTER 100B. LIABILITY FOR FINANCIAL EXPLOITATION

Sec. 100B.001. DEFINITIONS. (a) Defines "artificial intelligence," "artificially generated media," "financial exploitation," and "phishing communication."

Sec. 100B.002. CAUSE OF ACTION FOR DISSEMINATION OF CERTAIN COMMUNICATIONS FOR FINANCIAL EXPLOITATION. (a) Provides that a person is liable for damages resulting from a knowing or intentional dissemination of artificially generated media or a phishing communication for the purpose of financial exploitation.

(b) Requires a court to award a claimant who prevails in an action brought under this section actual damages, including damages for mental anguish and the defendant's profits attributable to the dissemination of the artificially generated media or phishing communication, and court costs and reasonable attorney's fees incurred in bringing the action.

(c) Authorizes a court in which an action is brought under this section, on a motion of a claimant, to issue a temporary restraining order or a temporary or permanent injunction to restrain and prevent the further dissemination of artificially generated media or a phishing communication to the claimant.

(d) Prohibits this section from being construed to impose liability, for content provided by another person, on the provider of an interactive computer service, as defined by 47 U.S.C. Section 230(f); a telecommunications service, as defined by 47 U.S.C. Section 153; or a radio or television station licensed by the Federal Communications Commission.

Sec. 100B.003. CIVIL PENALTY FOR DISSEMINATION OF CERTAIN COMMUNICATIONS FOR FINANCIAL EXPLOITATION. (a) Provides that a person who knowingly or intentionally disseminates artificially generated media or a phishing communication for purposes of financial exploitation is subject to a civil penalty not to exceed \$1,000 per day the media or communication is disseminated. Authorizes the attorney general to bring an action to collect the civil penalty.

(b) Requires that an action brought by the attorney general under this section be filed in a district court in Travis County or in any county in which all or part of the events or omissions giving rise to the action occurred.

(c) Prohibits this section from being construed to impose liability, for content provided by another person, on the provider of an interactive computer service, as defined by 47 U.S.C. Section 230(f); a telecommunications services, as defined by 47 U.S.C. Section 153; or a radio or television station licensed by the Federal Communications Commission.

Sec. 100B.004. CONFIDENTIAL IDENTITY IN ACTION FOR DISSEMINATION OF CERTAIN COMMUNICATIONS. (a) Defines "confidential identity."

(b) Requires the court, in an action brought under Section 100B.002 or 100B.003, to notify the person who is the subject of the action as early as possible in the action that the person may use a confidential identity in relation to the action; allow a person who is the subject of the action to use a confidential identity in all petitions, filings, and other documents presented to the court; use the person's confidential identity in all of the court's proceedings and records relating to the action, including any appellate proceedings; and maintain the records relating to the action in a manner that protects the person's confidentiality.

(c) Provides that, in an action brought under Section 100B.002 or 100B.003, only the following persons are entitled to know the true identifying information about the person who is the subject of the action: the court, a party to the action, an attorney representing a party to the action, and a person authorized by a written order of the court specific to the person.

(d) Provides that the court is required 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 the court to hold a person who violates the order in contempt.

(e) Prohibits the Supreme Court of Texas, notwithstanding Section 22.004 (Fee For Production or Certification of Documents), from amending or adopting rules in conflict with this section.

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

SECTION 2. Amends Subchapter D, Chapter 32, Penal Code, by adding Section 32.56, as follows: Sec. 32.56. FINANCIAL ABUSE USING ARTIFICIALLY GENERATED MEDIA OR PHISHING. (a) Defines "artificially generated media" and "financial abuse."

(b) Provides that a person commits an offense if the person knowingly engages in financial abuse through the use of artificially generated media disseminated to another person or by deceiving or manipulating another person into providing personal, financial, or identifying information through e-mail, electronic communication, or other digital means.

(c) Provides that an offense under this section is classified as certain misdemeanor or felony offenses based on the value of the property taken, appropriated, obtained, retained, or used.

(d) Provides that this section does not apply, for content provided by another person, to the provider of an interactive computer service, as defined by 47 U.S.C. Section 230(f); a telecommunications service, as defined by 47 U.S.C. Section 153; or a radio or television station licensed by the Federal Communications Commission.

SECTION 3. Makes application of Section 100B.002, Civil Practice and Remedies Code, as added by this Act, prospective.

SECTION 4. Effective date: September 1, 2025.