

BILL ANALYSIS

C.S.S.B. 2373

By: Johnson

Delivery of Government Efficiency
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The bill sponsor has informed the committee that artificial intelligence (AI) is increasingly being exploited for financial scams, particularly scams targeting vulnerable populations such as seniors and individuals with disabilities, and that fraudsters may use AI-generated media, including deepfake videos, voice cloning, and phishing communications, to deceive victims into transferring money or providing sensitive personal information. While current Texas law criminalizes financial exploitation and fraud under the Penal Code, these laws do not explicitly cover AI-generated scams. C.S.S.B. 2373 addresses this issue by establishing a civil cause of action for financial exploitation through AI-generated scams, imposing civil penalties for offenders, providing confidential identity protection for victims of AI scams in related actions, and creating a tiered criminal offense, ranging from a Class B misdemeanor to a first degree felony based on the amount exploited.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes 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. 2373 amends the Civil Practice and Remedies Code and the Penal Code to set out provisions creating a cause of action for the dissemination of artificially generated media or a phishing communication for the purpose of financial exploitation, imposing civil penalties for such dissemination, providing confidential identity protections in related actions, and establishing the offense of financial abuse using artificially generated media or phishing.

Cause of Action for Dissemination of Certain Communications

C.S.S.B. 2373 makes a person liable for damages resulting from a knowing or intentional dissemination of artificially generated media or a phishing communication for the purpose of financial exploitation. The bill requires a court to award the following to a claimant who prevails in an action brought under these provisions:

- 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.

The bill authorizes a court in which such an action is brought, 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. These provisions may not be construed to impose liability, for content provided by another person, on the following:

- the provider of an interactive computer service, as defined by federal law relating to protection for private blocking and screening of offensive material;
- a telecommunications service, as defined by federal law relating to wire or radio communications; or
- a radio or television station licensed by the FCC.

These provisions apply only to a cause of action that accrues on or after the bill's effective date.

Civil Penalty for Dissemination of Certain Communications

C.S.S.B. 2373 subjects a person who knowingly or intentionally disseminates artificially generated media or a phishing communication for purposes of financial exploitation to a civil penalty not to exceed \$1,000 per day the media or communication is disseminated. The bill authorizes the attorney general to bring an action to collect the civil penalty and establishes the venue for such an action as 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. These provisions may not be construed to impose liability, for content provided by another person, on the following:

- the provider of an interactive computer service, as defined by federal law relating to protection for private blocking and screening of offensive material;
- a telecommunications service, as defined by federal law relating to wire or radio communications; or
- a radio or television station licensed by the FCC.

Confidential Identity in Action for Dissemination of Certain Communications

C.S.S.B. 2373 requires a court to do the following in an action brought under the bill's provisions relating to a cause of action for the dissemination of certain communications or the bill's provisions relating to civil penalties for such dissemination:

- 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.

The bill establishes that only 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 that person are entitled to know the true identifying information about the person who is the subject of such an action. The bill requires the court to order that a person entitled to know the true identifying information may not divulge that information to anyone without a written order of the court and requires the court to hold a person who violates the order in contempt. The bill prohibits the Texas Supreme Court from amending or adopting rules in conflict with these confidential identity provisions and establishes that a person is not required to use a confidential identity as provided by these provisions.

Criminal Offense

C.S.S.B. 2373 creates the offense of financial abuse using artificially generated media or phishing for a person who 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 email, electronic

communication, or other digital means. The bill establishes the following penalties for the offense depending on the value of the property taken, appropriated, obtained, retained, or used:

- a Class B misdemeanor if the value is less than \$100;
- a Class A misdemeanor if the value is \$100 or more but less than \$750;
- a state jail felony if the value is \$750 or more but less than \$2,500;
- a felony of the third degree if the value is \$2,500 or more but less than \$30,000;
- a felony of the second degree if the value is \$30,000 or more but less than \$150,000; and
- a felony of the first degree if the value is \$150,000 or more.

This offense does not apply, for content provided by another person, to the following:

- the provider of an interactive computer service, as defined by federal law relating to protection for private blocking and screening of offensive material;
- a telecommunications service, as defined by federal law relating to wire or radio communications; or
- a radio or television station licensed by the FCC.

Definitions

C.S.S.B. 2373 defines the following terms for purposes of its provisions:

- "artificial intelligence" means a machine-based system that can, for a given set of explicit or implicit objectives, make predictions, recommendations, or decisions that influence real or virtual environments;
- "artificially generated media" means an image, an audio file, a video file, a radio broadcast, written text, or other media created or modified using artificial intelligence or other computer software with the intent to deceive;
- "confidential identity" means the use of a pseudonym and the absence of any other identifying information, including address, telephone number, and social security number;
- "financial abuse" has the meaning assigned under Penal Code provisions establishing the offense of financial abuse of an elderly individual, which define the term as the wrongful taking, appropriation, obtaining, retention, or use of, or assisting in the wrongful taking, appropriation, obtaining, retention, or use of, money or other property of another person by any means, including by exerting undue influence, and specify that the term also includes financial exploitation as defined in statute for purposes of that offense;
- "financial exploitation" has the meaning assigned by Finance Code provisions relating to the protection of vulnerable adults from financial exploitation, which defines the term as the following:
 - the wrongful or unauthorized taking, withholding, appropriation, or use of the money, assets, or other property or the identifying information of a person; or
 - an act or omission by a person, including through the use of a power of attorney on behalf of, or as the conservator or guardian of, another person, to:
 - obtain control, through deception, intimidation, fraud, or undue influence, over the other person's money, assets, or other property to deprive the other person of the ownership, use, benefit, or possession of the property; or
 - convert the money, assets, or other property of the other person to deprive the other person of the ownership, use, benefit, or possession of the property; and
- "phishing communication" as an attempt to deceive or manipulate a person into providing personal, financial, or identifying information through email, electronic communication, or other digital means.

EFFECTIVE DATE

September 1, 2025.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 2373 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.

The substitute includes provisions absent from the engrossed establishing that the bill's provisions relating to a civil cause of action and the bill's provisions relating to civil penalties may not be construed to impose liability, for content provided by another person, on a radio or television station licensed by the FCC and that the criminal offense established by the bill does not apply, for content provided by another person, to such a station.

The substitute omits a provision that appeared in the engrossed that defined "exploitation" by reference to statutory provisions relating to the protection of vulnerable adults from financial exploitation.