

SENATE AMENDMENTS
2nd Printing

By: González of El Paso, et al.

H.B. No. 449

A BILL TO BE ENTITLED

AN ACT

relating to the unlawful production or distribution of sexually explicit images using deep fake technology.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Section 21.165, Penal Code, is amended to read as follows:

Sec. 21.165. UNLAWFUL PRODUCTION OR DISTRIBUTION OF CERTAIN SEXUALLY EXPLICIT IMAGES OR VIDEOS.

SECTION 2. Section 21.165(a), Penal Code, is amended by amending Subdivision (1) and adding Subdivision (1-a) to read as follows:

(1) "Deep fake image" means an image, created with the intent to deceive, that appears to depict a real person performing an action that did not occur in reality.

(1-a) "Deep fake video" means a video, created with the intent to deceive, that appears to depict a real person performing an action that did not occur in reality.

SECTION 3. Section 21.165(b), Penal Code, is amended to read as follows:

(b) A person commits an offense if, without the effective consent of the person appearing to be depicted, the person knowingly produces or distributes by electronic means a deep fake image or deep fake video that appears to depict the person with the person's intimate parts exposed or engaged in sexual conduct.

1 SECTION 4. The change in law made by this Act applies only
2 to an offense committed on or after the effective date of this Act.
3 An offense committed before the effective date of this Act is
4 governed by the law in effect on the date the offense was committed,
5 and the former law is continued in effect for that purpose. For
6 purposes of this section, an offense was committed before the
7 effective date of this Act if any element of the offense occurred
8 before that date.

9 SECTION 5. This Act takes effect September 1, 2025.

ADOPTED

MAY 23 2025

Arthur Law
Secretary of the Senate

By: Joan Huffman

H.B. No. 449

Substitute the following for H.B. No. 449:

By: Peter P. Stone

C.S. H.B. No. 449

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the unlawful production or distribution of sexually
3 explicit media using deep fake technology.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. The heading to Section 21.165, Penal Code, is
6 amended to read as follows:

7 Sec. 21.165. UNLAWFUL PRODUCTION OR DISTRIBUTION OF CERTAIN
8 SEXUALLY EXPLICIT MEDIA ~~[VIDEOS]~~.

9 SECTION 2. Section 21.165(a)(1), Penal Code, is amended to
10 read as follows:

11 (1) "Deep fake media ~~[video]~~" means a visual depiction
12 ~~[a video]~~, created or altered through ~~[with]~~ the use of software,
13 machine learning, artificial intelligence, or any other
14 computer-generated or technological means, including by adapting,
15 modifying, manipulating, or altering an authentic visual depiction
16 manually or through an automated process ~~[intent to deceive]~~, that
17 appears to a reasonable person to depict a real person,
18 indistinguishable from an authentic visual depiction of the real
19 person, performing an action that did not occur in reality.

20 SECTION 3. Section 21.165(b), Penal Code, is amended to
21 read as follows:

22 (b) A person commits an offense if, without the effective
23 consent of the person appearing to be depicted, the person
24 knowingly produces or distributes by electronic means ~~[a]~~ deep fake

1 media [~~video~~] that appears to depict the person with the person's
2 intimate parts exposed or engaged in sexual conduct.

3 SECTION 4. The change in law made by this Act applies only
4 to an offense committed on or after the effective date of this Act.
5 An offense committed before the effective date of this Act is
6 governed by the law in effect on the date the offense was committed,
7 and the former law is continued in effect for that purpose. For
8 purposes of this section, an offense was committed before the
9 effective date of this Act if any element of the offense occurred
10 before that date.

11 SECTION 5. This Act takes effect September 1, 2025.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 89TH LEGISLATIVE REGULAR SESSION

May 24, 2025

TO: Honorable Dustin Burrows, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB449 by González, Mary (Relating to the unlawful production or distribution of sexually explicit media using deep fake technology.), **As Passed 2nd House**

<p>No significant fiscal implication to the State is anticipated.</p>
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The bill would expand the conduct constituting the Class A misdemeanor offense of unlawful production or distribution of certain sexually explicit videos to include the production or distribution of certain other sexually explicit visual media.

It is assumed that any fiscal impact and any impact on state correctional populations or on the demand for state correctional resources would not be significant.

Local Government Impact

It is assumed that any fiscal impact to units of local government associated with enforcement, prosecution, supervision, or confinement would not be significant.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: JMc, SD, MGol, DGI

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 89TH LEGISLATIVE REGULAR SESSION

May 20, 2025

TO: Honorable Pete Flores, Chair, Senate Committee on Criminal Justice

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB449 by González, Mary (relating to the unlawful production or distribution of sexually explicit media using deep fake technology.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would expand the conduct constituting the Class A misdemeanor offense of unlawful production or distribution of certain sexually explicit videos to include the production or distribution of certain other sexually explicit visual media.

It is assumed that any fiscal impact and any impact on state correctional populations or on the demand for state correctional resources would not be significant.

Local Government Impact

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Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: JMc, MGol, DGI

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 89TH LEGISLATIVE REGULAR SESSION

May 18, 2025

TO: Honorable Pete Flores, Chair, Senate Committee on Criminal Justice

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB449 by González, Mary (Relating to the unlawful production or distribution of sexually explicit images using deep fake technology.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would expand the conduct constituting the Class A misdemeanor offense of unlawful production or distribution of certain sexually explicit videos to include deep fake images.

It is assumed that any fiscal impact and any impact on state correctional populations or on the demand for state correctional resources would not be significant.

Local Government Impact

It is assumed that any fiscal impact to units of local government associated with enforcement, prosecution, supervision, or confinement would not be significant.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: JMc, MGol, DGI

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 89TH LEGISLATIVE REGULAR SESSION

March 24, 2025

TO: Honorable John T. Smithee, Chair, House Committee on Criminal Jurisprudence

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB449 by González, Mary (Relating to the unlawful production or distribution of sexually explicit images using deep fake technology.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would expand the conduct constituting the Class A misdemeanor offense of unlawful production or distribution of certain sexually explicit videos to include deep fake images.

It is assumed that any fiscal impact and any impact on state correctional populations or on the demand for state correctional resources would not be significant.

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LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

89TH LEGISLATIVE REGULAR SESSION

May 20, 2025

TO: Honorable Pete Flores, Chair, Senate Committee on Criminal Justice

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB449 by González, Mary (relating to the unlawful production or distribution of sexually explicit media using deep fake technology.), **Committee Report 2nd House, Substituted**

The bill would expand the conduct constituting the Class A misdemeanor offense of unlawful production or distribution of certain sexually explicit videos to include the production or distribution of certain other sexually explicit visual media.

Expanding conduct constituting an existing offense may result in additional demands upon state and local correctional resources due to a possible increase in the number of individuals placed under supervision in the community or sentenced to a term of confinement.

In fiscal year 2024, there were four arrests, three referrals, and no individuals placed on adult community supervision, admitted into an adult state correctional facility, or admitted into a juvenile state correctional facility for the offense of unlawful production or distribution of certain sexually explicit videos.

It is assumed that any impact on state correctional populations or on the demand for state correctional resources would not be significant.

Source

Agencies:

LBB Staff: JMc, MGol, DGI

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

89TH LEGISLATIVE REGULAR SESSION

May 18, 2025

TO: Honorable Pete Flores, Chair, Senate Committee on Criminal Justice

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB449 by González, Mary (Relating to the unlawful production or distribution of sexually explicit images using deep fake technology.), As Engrossed

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Expanding conduct constituting an existing offense may result in additional demands upon state and local correctional resources due to a possible increase in the number of individuals placed under supervision in the community or sentenced to a term of confinement.

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LBB Staff: JMc, MGol, DGI

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

89TH LEGISLATIVE REGULAR SESSION

March 24, 2025

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IN RE: HB449 by González, Mary (Relating to the unlawful production or distribution of sexually explicit images using deep fake technology.), **As Introduced**

The bill would expand the conduct constituting the Class A misdemeanor offense of unlawful production or distribution of certain sexually explicit videos to include deep fake images.

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