

AN ACT

relating to criminal and civil liability related to sexually explicit media and artificial intimate visual material; creating a criminal offense; increasing a criminal penalty.

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 MEDIA ~~[VIDEOS]~~.

SECTION 2. Section 21.165(a), Penal Code, is amended by amending Subdivision (1) and adding Subdivision (3) to read as follows:

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

(3) "Visual depiction" means a photograph, motion picture film, videotape, digital image or video, or other visual recording.

SECTION 3. Section 21.165, Penal Code, is amended by amending Subsections (b) and (c) and adding Subsections (b-1), (b-2), (c-1), (c-2), (c-3), (c-4), (c-5), and (e) 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 media ~~[video]~~ that appears to depict the person:

(1) with visible computer-generated intimate parts or with the visible intimate parts of another human being as the intimate parts of the person; or

(2) engaging in sexual conduct in which the person did not engage [with the person's intimate parts exposed or engaged in sexual conduct].

(b-1) A person commits an offense if the person intentionally threatens to produce or distribute deep fake media with the intent to coerce, extort, harass, or intimidate another person.

(b-2) Consent required by Subsection (b) is valid only if the person appearing to be depicted knowingly and voluntarily signed a written agreement that was drafted in plain language. The agreement must include:

(1) a general description of the deep fake media; and

(2) if applicable, the audiovisual work into which the deep fake media will be incorporated.

(c) An offense under Subsection (b) ~~[this section]~~ is a Class A misdemeanor, except that the offense is a felony of the third degree if it is shown on the trial of the offense that:

(1) the actor has been previously convicted of an offense under this section; or

(2) the person appearing to be depicted is younger than 18 years of age.

(c-1) An offense under Subsection (b-1) is a Class B misdemeanor, except that the offense is a Class A misdemeanor if it is shown on the trial of the offense that:

(1) the actor has been previously convicted of an offense under this section; or

(2) the actor threatened to produce or distribute deep fake media appearing to depict a person younger than 18 years of age.

(c-2) It is not a defense to prosecution under this section that the deep fake media:

(1) contains a disclaimer stating that the media was unauthorized or that the person appearing to be depicted did not

participate in the creation or development of the deep fake media;
or

(2) indicates, through a label or otherwise, that the depiction is not authentic.

(c-3) It is an affirmative defense to prosecution under this section that the production or distribution of the deep fake media occurs in the course of:

(1) lawful and common practices of law enforcement;

(2) reporting unlawful activity; or

(3) a legal proceeding, if the production or distribution is permitted or required by law.

(c-4) It is an affirmative defense to prosecution under Subsection (b) that the actor:

(1) is an Internet service provider, cloud service provider, cybersecurity service provider, communication service provider, or telecommunications network that transmits data; and

(2) acted solely in a technical, automatic, or intermediate nature.

(c-5) It is an affirmative defense to prosecution under Subsection (b) that the actor:

(1) is a provider or developer of a publicly accessible artificial intelligence application or software that was used in the creation of the deep fake media;

(2) included a prohibition against the creation of deep fake media prohibited by this section in the actor's terms and conditions or user policies that are required to be acknowledged by a user before the user is granted access to the artificial intelligence application or software; and

(3) took affirmative steps to prevent the creation of deep fake media prohibited by this section through technological tools, such as:

(A) training the artificial intelligence application or software to identify deep fake media prohibited by this section;

(B) providing effective reporting tools for deep fake media prohibited by this section;

(C) filtering deep fake media prohibited by this section created by the artificial intelligence application or software before the media is shown to a user; and

(D) filtering deep fake media prohibited by this section from the artificial intelligence application or software data set before the data set is used to train the application or software.

(e) The court shall order a defendant convicted of an offense under this section to make restitution to the victim of the offense for any psychological, financial, or reputational harm incurred by the victim as a result of the offense.

SECTION 4. The heading to Chapter 98B, Civil Practice and Remedies Code, is amended to read as follows:

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

SECTION 5. Section 98B.001, Civil Practice and Remedies Code, is amended by amending Subdivision (1) and adding Subdivisions (1-a), (1-b), (3), and (4) to read as follows:

(1) "Artificial intimate visual material" means 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.

(1-a) "Consent" means affirmative, conscious, and voluntary agreement, made by a person freely and without coercion, fraud, or misrepresentation.

(1-b) "Intimate parts," "promote," "sexual conduct," and "visual material" have the meanings assigned by Section 21.16, Penal Code.

(3) "Nudification application" means an artificial intelligence application that is primarily designed and marketed for the purpose of producing artificial intimate visual material.

(4) "Social media platform" has the meaning assigned by Section 120.001, Business & Commerce Code.

SECTION 6. Chapter 98B, Civil Practice and Remedies Code,

is amended by adding Sections 98B.0021, 98B.0022, 98B.008, and 98B.009 to read as follows:

Sec. 98B.0021. LIABILITY FOR UNLAWFUL PRODUCTION, SOLICITATION, DISCLOSURE, OR PROMOTION OF CERTAIN ARTIFICIAL INTIMATE VISUAL MATERIAL. A defendant is liable, as provided by this chapter, 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.

Sec. 98B.0022. LIABILITY OF OWNERS OF INTERNET WEBSITES AND ARTIFICIAL INTELLIGENCE APPLICATIONS AND PAYMENT PROCESSORS. (a) A person who owns an Internet website or application, including a social media platform, and who recklessly facilitates the production or disclosure of artificial intimate visual material in exchange for payment, who owns a publicly accessible nudification application from which the material is produced, or who recklessly 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) A person who owns an Internet website or application, 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 or application to remove the material and the person who owns the website or application fails to 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) A person who owns an Internet website or application, including a social media platform, shall make 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.

(d) A person who owns an Internet website or application, including a social media platform, shall make available on the website or application a clear and conspicuous notice, which may be provided through a clear and conspicuous link to another web page or disclosure, of the removal process established under Subsection (c), that:

(1) is written in plain language that is easy to read; and

(2) provides information regarding the responsibilities of the person who owns the website or application under this section, 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.

(e) A violation of Subsection (b), (c), or (d) is a deceptive trade practice actionable under Subchapter E, Chapter 17, Business & Commerce Code.

(f) The attorney general may investigate and bring an action for injunctive relief against a person who repeatedly violates Subsection (b), (c), or (d). If the attorney general prevails in the action, the attorney general may recover costs and attorney's fees.

Sec. 98B.008. CONFIDENTIAL IDENTITY IN CERTAIN ACTIONS. (a) In this section, "confidential identity" means:

(1) the use of a pseudonym; and

(2) the absence of any other identifying information, including address, telephone number, and social security number.

(b) Except as otherwise provided by this section, in a suit brought under this chapter, the court shall:

(1) 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;

(2) allow a claimant to use a confidential identity in all petitions, filings, and other documents presented to the court;

(3) use the confidential identity in all of the court's proceedings and records relating to the suit, including any appellate proceedings; and

(4) maintain the records relating to the suit in a manner that protects the confidentiality of the claimant.

(c) In a suit brought under this chapter, only the following persons are entitled to know the true identifying information about the claimant:

(1) the judge;

(2) a party to the suit;

(3) the attorney representing a party to the suit; and

(4) a person authorized by a written order of a court specific to that person.

(d) The court shall order that a person entitled to know the true identifying information under Subsection (c) may not divulge that information to anyone without a written order of the court. A court shall hold a person who violates the order in contempt.

(e) Notwithstanding Section 22.004, Government Code, the supreme court may not amend or adopt rules in conflict with this section.

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

Sec. 98B.009. STATUTE OF LIMITATIONS. A person must bring suit under this chapter not later than 10 years after the later of the date on which:

(1) the person depicted in the intimate visual material that is the basis for the suit reasonably discovers the intimate visual material; or

(2) the person depicted in the intimate visual material that is the basis for the suit turns 18 years of age.

SECTION 7. Chapter 98B, Civil Practice and Remedies Code, as amended by this Act, applies only to a cause of action that accrues on or after the effective date of this Act.

SECTION 8. Section 21.165, Penal Code, as amended by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

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

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 441 passed the Senate on March 18, 2025, by the following vote: Yeas 30, Nays 0; May 28, 2025, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 30, 2025, House granted request of the Senate; May 31, 2025, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 441 passed the House, with amendments, on May 27, 2025, by the following vote: Yeas 104, Nays 36, one present not voting; May 30, 2025, House granted request of the Senate for appointment of Conference Committee;

May 31, 2025, House adopted Conference Committee Report by the following vote: Yeas 90, Nays 33, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor