

1-1 By: Davis of Harris, et al. (Senate Sponsor - Garcia) H.B. No. 603
1-2 (In the Senate - Received from the House May 18, 2015;
1-3 May 19, 2015, read first time and referred to Committee on Criminal
1-4 Justice; May 24, 2015, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 6, Nays 0;
1-6 May 24, 2015, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10			X	
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			

1-16 COMMITTEE SUBSTITUTE FOR H.B. No. 603 By: Whitmire

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to civil and criminal liability for the unlawful
1-20 disclosure or promotion of certain intimate visual material;
1-21 creating an offense.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. This Act shall be known as the Relationship
1-24 Privacy Act.

1-25 SECTION 2. Title 4, Civil Practice and Remedies Code, is
1-26 amended by adding Chapter 98B to read as follows:

1-27 CHAPTER 98B. UNLAWFUL DISCLOSURE OR PROMOTION OF INTIMATE VISUAL
1-28 MATERIAL

1-29 Sec. 98B.001. DEFINITIONS. In this chapter:

1-30 (1) "Intimate parts," "promote," "sexual conduct,"
1-31 and "visual material" have the meanings assigned by Section 21.16,
1-32 Penal Code.

1-33 (2) "Intimate visual material" means visual material
1-34 that depicts a person:

1-35 (A) with the person's intimate parts exposed; or

1-36 (B) engaged in sexual conduct.

1-37 Sec. 98B.002. LIABILITY FOR UNLAWFUL DISCLOSURE OR
1-38 PROMOTION OF CERTAIN INTIMATE VISUAL MATERIAL. (a) A defendant is
1-39 liable, as provided by this chapter, to a person depicted in
1-40 intimate visual material for damages arising from the disclosure of
1-41 the material if:

1-42 (1) the defendant discloses the intimate visual
1-43 material without the effective consent of the depicted person;

1-44 (2) the intimate visual material was obtained by the
1-45 defendant or created under circumstances in which the depicted
1-46 person had a reasonable expectation that the material would remain
1-47 private;

1-48 (3) the disclosure of the intimate visual material
1-49 causes harm to the depicted person; and

1-50 (4) the disclosure of the intimate visual material
1-51 reveals the identity of the depicted person in any manner,
1-52 including through:

1-53 (A) any accompanying or subsequent information
1-54 or material related to the intimate visual material; or

1-55 (B) information or material provided by a third
1-56 party in response to the disclosure of the intimate visual
1-57 material.

1-58 (b) A defendant is liable, as provided by this chapter, to a
1-59 person depicted in intimate visual material for damages arising
1-60 from the promotion of the material if, knowing the character and

2-1 content of the material, the defendant promotes intimate visual
2-2 material described by Subsection (a) on an Internet website or
2-3 other forum for publication that is owned or operated by the
2-4 defendant.

2-5 Sec. 98B.003. DAMAGES. (a) A claimant who prevails in a
2-6 suit under this chapter shall be awarded:

2-7 (1) actual damages, including damages for mental
2-8 anguish;

2-9 (2) court costs; and

2-10 (3) reasonable attorney's fees.

2-11 (b) In addition to an award under Subsection (a), a claimant
2-12 who prevails in a suit under this chapter may recover exemplary
2-13 damages.

2-14 Sec. 98B.004. INJUNCTIVE RELIEF. (a) A court in which a
2-15 suit is brought under this chapter, on the motion of a party, may
2-16 issue a temporary restraining order or a temporary or permanent
2-17 injunction to restrain and prevent the disclosure or promotion of
2-18 intimate visual material with respect to the person depicted in the
2-19 material.

2-20 (b) A court that issues a temporary restraining order or a
2-21 temporary or permanent injunction under Subsection (a) may award to
2-22 the party who brought the motion damages in the amount of:

2-23 (1) \$1,000 for each violation of the court's order or
2-24 injunction, if the disclosure or promotion of intimate visual
2-25 material is wilful or intentional; or

2-26 (2) \$500 for each violation of the court's order or
2-27 injunction, if the disclosure or promotion of intimate visual
2-28 material is not wilful or intentional.

2-29 Sec. 98B.005. CAUSE OF ACTION CUMULATIVE. The cause of
2-30 action created by this chapter is cumulative of any other remedy
2-31 provided by common law or statute.

2-32 Sec. 98B.006. JURISDICTION. A court has personal
2-33 jurisdiction over a defendant in a suit brought under this chapter
2-34 if:

2-35 (1) the defendant resides in this state;

2-36 (2) the claimant who is depicted in the intimate
2-37 visual material resides in this state;

2-38 (3) the intimate visual material is stored on a server
2-39 that is located in this state; or

2-40 (4) the intimate visual material is available for view
2-41 in this state.

2-42 Sec. 98B.007. LIBERAL CONSTRUCTION AND APPLICATION;
2-43 CERTAIN CONDUCT EXCEPTED. (a) This chapter shall be liberally
2-44 construed and applied to promote its underlying purpose to protect
2-45 persons from, and provide adequate remedies to victims of, the
2-46 disclosure or promotion of intimate visual material.

2-47 (b) This chapter does not apply to a claim brought against
2-48 an interactive computer service, as defined by 47 U.S.C. Section
2-49 230, for a disclosure or promotion consisting of intimate visual
2-50 material provided by another person.

2-51 SECTION 3. Chapter 21, Penal Code, is amended by adding
2-52 Section 21.16 to read as follows:

2-53 Sec. 21.16. UNLAWFUL DISCLOSURE OR PROMOTION OF INTIMATE
2-54 VISUAL MATERIAL. (a) In this section:

2-55 (1) "Intimate parts" means the naked genitals, pubic
2-56 area, anus, buttocks, or female nipple of a person.

2-57 (2) "Promote" means to procure, manufacture, issue,
2-58 sell, give, provide, lend, mail, deliver, transfer, transmit,
2-59 publish, distribute, circulate, disseminate, present, exhibit, or
2-60 advertise or to offer or agree to do any of the above.

2-61 (3) "Sexual conduct" means sexual contact, actual or
2-62 simulated sexual intercourse, deviate sexual intercourse, sexual
2-63 bestiality, masturbation, or sadomasochistic abuse.

2-64 (4) "Simulated" means the explicit depiction of sexual
2-65 conduct that creates the appearance of actual sexual conduct and
2-66 during which a person engaging in the conduct exhibits any
2-67 uncovered portion of the breasts, genitals, or buttocks.

2-68 (5) "Visual material" means:

2-69 (A) any film, photograph, videotape, negative,

3-1 or slide or any photographic reproduction that contains or
3-2 incorporates in any manner any film, photograph, videotape,
3-3 negative, or slide; or
3-4 (B) any disk, diskette, or other physical medium
3-5 that allows an image to be displayed on a computer or other video
3-6 screen and any image transmitted to a computer or other video screen
3-7 by telephone line, cable, satellite transmission, or other method.
3-8 (b) A person commits an offense if:
3-9 (1) without the effective consent of the depicted
3-10 person, the person intentionally discloses visual material
3-11 depicting another person with the person's intimate parts exposed
3-12 or engaged in sexual conduct;
3-13 (2) the visual material was obtained by the person or
3-14 created under circumstances in which the depicted person had a
3-15 reasonable expectation that the visual material would remain
3-16 private;
3-17 (3) the disclosure of the visual material causes harm
3-18 to the depicted person; and
3-19 (4) the disclosure of the visual material reveals the
3-20 identity of the depicted person in any manner, including through:
3-21 (A) any accompanying or subsequent information
3-22 or material related to the visual material; or
3-23 (B) information or material provided by a third
3-24 party in response to the disclosure of the visual material.
3-25 (c) A person commits an offense if the person intentionally
3-26 threatens to disclose, without the consent of the depicted person,
3-27 visual material depicting another person with the person's intimate
3-28 parts exposed or engaged in sexual conduct and the actor makes the
3-29 threat to obtain a benefit:
3-30 (1) in return for not making the disclosure; or
3-31 (2) in connection with the threatened disclosure.
3-32 (d) A person commits an offense if, knowing the character
3-33 and content of the visual material, the person promotes visual
3-34 material described by Subsection (b) on an Internet website or
3-35 other forum for publication that is owned or operated by the person.
3-36 (e) It is not a defense to prosecution under this section
3-37 that the depicted person:
3-38 (1) created or consented to the creation of the visual
3-39 material; or
3-40 (2) voluntarily transmitted the visual material to the
3-41 actor.
3-42 (f) It is an affirmative defense to prosecution under
3-43 Subsection (b) or (d) that:
3-44 (1) the disclosure or promotion is made in the course
3-45 of:
3-46 (A) lawful and common practices of law
3-47 enforcement or medical treatment;
3-48 (B) reporting unlawful activity; or
3-49 (C) a legal proceeding, if the disclosure or
3-50 promotion is permitted or required by law;
3-51 (2) the disclosure or promotion consists of visual
3-52 material depicting in a public or commercial setting only a
3-53 person's voluntary exposure of:
3-54 (A) the person's intimate parts; or
3-55 (B) the person engaging in sexual conduct; or
3-56 (3) the actor is an interactive computer service, as
3-57 defined by 47 U.S.C. Section 230, and the disclosure or promotion
3-58 consists of visual material provided by another person.
3-59 (g) An offense under this section is a Class A misdemeanor.
3-60 (h) If conduct that constitutes an offense under this
3-61 section also constitutes an offense under another law, the actor
3-62 may be prosecuted under this section, the other law, or both.
3-63 SECTION 4. (a) Chapter 98B, Civil Practice and Remedies
3-64 Code, as added by this Act, applies only to a cause of action that
3-65 accrues on or after the effective date of this Act. A cause of
3-66 action that accrues before the effective date of this Act is
3-67 governed by the law in effect immediately before that date, and that
3-68 law is continued in effect for that purpose.
3-69 (b) Section 21.16, Penal Code, as added by this Act, applies

4-1 to visual material disclosed or promoted, or threatened to be
4-2 disclosed, on or after the effective date of this Act, regardless of
4-3 whether the visual material was created or transmitted to the actor
4-4 before, on, or after that date.

4-5 SECTION 5. This Act takes effect September 1, 2015.

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