

1-1 By: Hinojosa of Hidalgo S.B. No. 442
1-2 (In the Senate - Filed November 21, 2024; February 3, 2025,
1-3 read first time and referred to Committee on Criminal Justice;
1-4 March 6, 2025, reported favorably by the following vote: Yeas 7,
1-5 Nays 0; March 6, 2025, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	Flores	X		
1-9	Parker	X		
1-10	Hagenbuch	X		
1-11	Hinojosa of Hidalgo	X		
1-12	Huffman	X		
1-13	King	X		
1-14	Miles	X		

1-15 A BILL TO BE ENTITLED
1-16 AN ACT

1-17 relating to the prosecution and punishment of the offense of
1-18 unlawful production or distribution of certain sexually explicit
1-19 media; increasing a criminal penalty.

1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-21 SECTION 1. The heading to Section 21.165, Penal Code, is
1-22 amended to read as follows:

1-23 Sec. 21.165. UNLAWFUL PRODUCTION OR DISTRIBUTION OF CERTAIN
1-24 SEXUALLY EXPLICIT MEDIA [VIDEOS].

1-25 SECTION 2. Section 21.165(a), Penal Code, is amended by
1-26 amending Subdivision (1) and adding Subdivision (3) to read as
1-27 follows:

1-28 (1) "Deep fake media [~~video~~]" means a visual depiction
1-29 [~~a video,~~] created or altered through [~~with~~] the use of software,
1-30 machine learning, artificial intelligence, or any other
1-31 computer-generated or technological means, including by adapting,
1-32 modifying, manipulating, or altering an authentic visual depiction
1-33 manually or through an automated process [~~intent to deceive~~], that
1-34 appears to a reasonable person to depict a real person,
1-35 indistinguishable from an authentic visual depiction of the real
1-36 person, performing an action that did not occur in reality.

1-37 (3) "Visual depiction" means a photograph, motion
1-38 picture film, videotape, digital image or video, or other visual
1-39 recording.

1-40 SECTION 3. Section 21.165, Penal Code, is amended by
1-41 amending Subsections (b) and (c) and adding Subsections (b-1),
1-42 (c-1), and (c-2) to read as follows:

1-43 (b) A person commits an offense if, without the effective
1-44 consent of the person appearing to be depicted, the person
1-45 knowingly produces or distributes by electronic means [~~a~~] deep fake
1-46 media [~~video~~] that appears to depict the person:

1-47 (1) with visible computer-generated intimate parts or
1-48 with the visible intimate parts of another human being as the
1-49 intimate parts of the person; or

1-50 (2) engaging in sexual conduct in which the person did
1-51 not engage [~~with the person's intimate parts exposed or engaged in~~
1-52 ~~sexual conduct~~].

1-53 (b-1) Consent required by Subsection (b) is valid only if
1-54 the person appearing to be depicted knowingly and voluntarily
1-55 signed a written agreement that was drafted in plain language. The
1-56 agreement must include:

1-57 (1) a general description of the deep fake media; and

1-58 (2) if applicable, the audiovisual work into which the
1-59 deep fake media will be incorporated.

1-60 (c) An offense under this section is a Class A misdemeanor,
1-61 except that the offense is a felony of the third degree if it is

2-1 shown on the trial of the offense that the defendant has been
2-2 previously convicted of an offense under this section.

2-3 (c-1) It is not a defense to prosecution under this section
2-4 that the deep fake media:

2-5 (1) contains a disclaimer stating that the media was
2-6 unauthorized or that the person appearing to be depicted did not
2-7 participate in the creation or development of the deep fake media;
2-8 or

2-9 (2) indicates, through a label or otherwise, that the
2-10 depiction is not authentic.

2-11 (c-2) It is an affirmative defense to prosecution under this
2-12 section that the production or distribution of the deep fake media
2-13 occurs in the course of:

2-14 (1) lawful and common practices of law enforcement or
2-15 medical treatment;

2-16 (2) reporting unlawful activity; or

2-17 (3) a legal proceeding, if the production or
2-18 distribution is permitted or required by law.

2-19 SECTION 4. The changes in law made by this Act apply only to
2-20 an offense committed on or after the effective date of this Act. An
2-21 offense committed before the effective date of this Act is governed
2-22 by the law in effect on the date the offense was committed, and the
2-23 former law is continued in effect for that purpose. For purposes of
2-24 this section, an offense was committed before the effective date of
2-25 this Act if any element of the offense occurred before that date.

2-26 SECTION 5. This Act takes effect September 1, 2025.

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