

## **BILL ANALYSIS**

C.S.H.B. 98  
By: González, Mary  
Criminal Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Concerns have been raised regarding the constitutionality of laws passed in several states, including Texas, that impose civil and criminal liability for the disclosure of intimate visual material without the consent of the person depicted in the material. C.S.H.B. 98 seeks to add clarity to Texas' statutory approach to this issue by applicably providing for an actor's requisite intent in the disclosure of such material for purposes of establishing civil and criminal liability.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change 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.H.B. 98 amends the Penal Code to change the requisite intent for an offense involving the unlawful disclosure of intimate visual material from requisite intent that involves intentionally disclosing, without the effective consent of the depicted person, visual material depicting another person with the person's intimate parts exposed or engaged in sexual conduct to requisite intent that involves disclosing such material without that consent and with the intent to harm that person. The bill specifies that such disclosure constitutes an offense if at the time of the disclosure the actor knows or has reason to believe that the visual material was obtained by the actor or created under circumstances in which the depicted person had a reasonable expectation that the visual material would remain private.

C.S.H.B. 98 amends the Civil Practice and Remedies Code to include among the required conditions under which a defendant is liable to a person depicted in intimate visual material for damages arising from the disclosure of the material the following conditions regarding requisite intent:

- if disclosure by the defendant is with the intent to harm that person; and
- if, at the time of the disclosure, the defendant knows or has reason to believe that the material was obtained by the defendant or created under circumstances in which the depicted person had a reasonable expectation that the material would remain private.

### **EFFECTIVE DATE**

September 1, 2019.

## **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 98 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute changes the additional conditions constituting requisite intent for an offense involving the unlawful disclosure of intimate visual material and the additional conditions under which a defendant is liable to a person depicted in intimate visual material for damages arising from the disclosure of the material.

The substitute does not contain a provision including additional conditions under which a defendant is liable to a person depicted in intimate visual material for damages arising from the promotion of the material.

The substitute does not contain additional conditions constituting requisite intent with respect to an offense of unlawful promotion of intimate visual material.