CIVIL PRACTICE AND REMEDIES CODE

TITLE 4. LIABILITY IN TORT

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

Sec. 98B.001. DEFINITIONS. In this chapter:

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

(2) "Intimate visual material" means visual material that depicts a person:

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

(B) engaged in sexual conduct.

Added by Acts 2015, 84th Leg., R.S., Ch. 852 (S.B. 1135), Sec. 2, eff. September 1, 2015.

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

(1) the defendant discloses the intimate visual material without the effective consent of the depicted person and with the intent to harm that person;

(2) at the time of the disclosure, the defendant knows or has reason to believe that the intimate visual 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;

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

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

(A) any accompanying or subsequent information or material related to the intimate visual material; or

(B) information or material provided by a third

party in response to the disclosure of the intimate visual material.

(b) A defendant is liable, as provided by this chapter, to a person depicted in intimate visual material for damages arising from the promotion of the material if, knowing the character and content of the material, the defendant promotes intimate visual material described by Subsection (a) on an Internet website or other forum for publication that is owned or operated by the defendant.

Added by Acts 2015, 84th Leg., R.S., Ch. 852 (S.B. 1135), Sec. 2, eff. September 1, 2015.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1354 (H.B. 98), Sec. 1, eff. September 1, 2019.

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

(1) actual damages, including damages for mental anguish;

(2) court costs; and

(3) reasonable attorney's fees.

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

Added by Acts 2015, 84th Leg., R.S., Ch. 852 (S.B. 1135), Sec. 2, eff. September 1, 2015.

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

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

(1) $1,000 for each violation of the court's order or

injunction, if the disclosure or promotion of intimate visual material is wilful or intentional; or

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

Added by Acts 2015, 84th Leg., R.S., Ch. 852 (S.B. 1135), Sec. 2, eff. September 1, 2015.

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

Added by Acts 2015, 84th Leg., R.S., Ch. 852 (S.B. 1135), Sec. 2, eff. September 1, 2015.

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

(1) the defendant resides in this state;

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

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

(4) the intimate visual material is available for view in this state.

Added by Acts 2015, 84th Leg., R.S., Ch. 852 (S.B. 1135), Sec. 2, eff. September 1, 2015.

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

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

Added by Acts 2015, 84th Leg., R.S., Ch. 852 (S.B. 1135), Sec. 2,

eff. September 1, 2015.