

BILL ANALYSIS

Senate Research Center
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H.B. 2789
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State Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

As communication technology rapidly and continuously changes, it is important to make sure the law keeps pu with the shifting landscape. Current law addresses the physical act of indecent exposure, but is silent to the increasingly prevalent occurrence of individuals sending sexually explicit images to an individual without their consent. In keeping with how the law treats similar, non-digital lewd offenses, this bill aims to criminalize the digital forcing of lewd images onto non-consenting parties.

H.B. 2789 makes the electronic transmission of sexually-explicit vidual material without consent a Class C misdemeanor. Sending lewd images, such as those containing nudity and sexual acts, via text message, social media, and online dating apps will be punishable by a fine of up to \$500. This aims to offer a clear deterrent to those considering this and similar inappropriate conduct, and protects the unwilling recipients who continue to have no legal recourse for such abuse.

H.B. 2789 amends current law relating to the creation of the criminal offense of unlawful electronic transmission of sexually explicit visual material.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 21, Penal Code, by adding Section 21.19, as follows:

Sec. 21.19. UNLAWFUL ELECTRONIC TRANSMISSION OF SEXUALLY EXPLICIT VISUAL MATERIAL. (a) Defines "intimate parts," "sexual conduct," and "visual material" for purposes of this section.

(b) Provides that a person commits an offense if the person knowingly transmits by electronic means visual material that depicts any person engaging in sexual conduct or with the person's intimate parts exposed or covered genitals of a male person that are in a discernibly turgid state and that is not sent at the request of or with the express consent of the recipient.

(c) Provides that an offense under this section is a Class C misdemeanor.

(d) Authorizes the actor, if conduct that constitutes an offense under this section also constitutes an offense under any other law, to be prosecuted under this section or the other law.

SECTION 2. Effective date: September 1, 2019.