

BILL ANALYSIS

Senate Research Center
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S.B. 1496
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, a victim of "revenge porn" may seek recourse under Chapter 98B, Civil Practice and Remedies Code. The provisions in statute allow for a number of relief methods, including damages and a temporary or permanent injunctive order to remove and stop the spread of intimate visual material. Receiving an injunctive order may provide some initial relief; however, this type of material continues to be shared and reposted online. Instead of moving forward from this invasive experience, victims are continually checking online, often on a daily basis, to request the removal of material.

S.B. 1496 would amend the Business & Commerce Code to require search engine operators to use methods, such as image recognition and artificial intelligence, to automatically detect and remove intimate visual material that a search engine operator has already agreed to remove due to an injunctive order. S.B. 1496 would also allow an appropriate local prosecuting attorney or the attorney general to collect a civil penalty, in an amount no greater than \$500, for each day a search engine operator fails to comply with the removal requirement.

As proposed, S.B. 1496 amends current law relating to removal of certain intimate visual material by a search engine operator of an Internet website and imposes a civil penalty.

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 Subtitle C, Title 5, Business & Commerce Code, by adding Chapter 113, as follows:

CHAPTER 113. REMOVAL OF CERTAIN INTIMATE VISUAL MATERIAL BY SEARCH ENGINE OPERATOR OF INTERNET WEBSITE

Sec. 113.001. DEFINITIONS. Defines "intimate parts," "sexual conduct," "visual material," "intimate visual material," and "search engine operator."

Sec. 113.002. REMOVAL OF CERTAIN INTIMATE VISUAL MATERIAL. (a) Provides that this section applies only to:

(1) intimate visual material that was obtained by a person or created under circumstances in which the person depicted in the visual material had a reasonable expectation that the visual material would remain private and posted on an Internet website or otherwise made publicly available without the consent of the person depicted in the visual material; and

(2) intimate visual material that was created without the consent of the person depicted in the visual material and posted on an Internet website or otherwise made publicly available.

(b) Requires a search engine operator that has agreed to remove a person's intimate visual material described by Subsection (a) from the Internet website to monitor the website and use established methods to automatically remove any subsequent instance of the intimate visual material that has been reposted to the website.

Sec. 113.003. CIVIL PENALTY; INJUNCTION. (a) Provides that a search engine operator that violates Section 113.002 is liable to this state for a civil penalty in an amount not to exceed \$500 for each day the search engine operator violates Section 113.002.

(b) Authorizes the attorney general or an appropriate local prosecuting attorney to bring an action to collect a civil penalty imposed under this section.

(c) Requires that the civil penalty, if the attorney general brings an action under Subsection (b) and prevails, be deposited in the state treasury to the credit of the general revenue fund. Requires that the civil penalty, if a local prosecuting attorney brings the action and prevails, be deposited in the general fund of the appropriate county.

(d) Authorizes the attorney general to bring an action in the name of this state to enjoin a violation of this chapter.

(e) Provides that the attorney general is entitled to recover reasonable expenses incurred in bringing an action under this section, including reasonable attorney's fees and court costs.

SECTION 2. Provides that Chapter 113, Business & Commerce Code, as added by this Act, applies to any intimate visual material that a search engine operator has agreed to remove from its Internet website, regardless of whether the search engine operator agreed to the removal of the intimate visual material before, on, or after the effective date of this Act..

SECTION 3. Effective date: September 1, 2021.