A BILL TO BE ENTITLED

AN ACT

relating to the creation of the offense of unlawful dissemination of certain visual material; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 21, Penal Code, is amended by adding Section 21.16 to read as follows:

Sec. 21.16. UNLAWFUL DISSEMINATION OF CERTAIN VISUAL MATERIAL. (a) In this section:

(1) "Exposed intimate parts" means a person's intimate parts that are:

(A) entirely unclothed; or

(B) clothed in a manner that leaves any portion of those parts uncovered or visible through less than fully opaque clothing.

(2) "Intimate parts" means the genitals, pubic area, anus, buttocks, or female nipple of a person.

(3) "Sexual conduct" has the meaning assigned by Section 43.25.

(4) "Visual material" has the meaning assigned by Section 43.26.

(b) A person commits an offense if:

(1) the person intentionally disseminates visual material depicting the other person:

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

(B) engaged in sexual conduct;

(2) the person obtained the visual material under circumstances in which a reasonable person should have known or understood that the visual material was to remain private;

(3) the person knows or should have known that the depicted person did not consent to the dissemination;

(4) the depicted person is identifiable from the content of the visual material or from any information displayed in connection with the visual material; and

(5) the person disseminates the visual material with the intent to:

(A) harass, abuse, or torment the depicted person; or

(B) obtain a benefit in return for or in connection with the dissemination.

(c) It is a defense to prosecution under this section that:

(1) the dissemination is made in the course of:

(A) lawful and common practices of law enforcement or medical treatment;

(B) reporting unlawful activity; or

(C) a legal proceeding, if the dissemination was permitted or required by law;

(2) the dissemination consists of visual material depicting only a voluntary exposure of intimate parts or sexual conduct in a public or commercial setting; or

(3) the actor is an interactive computer service, as
defined by 47 U.S.C. Section 230, or a provider of an information service, as defined by 47 U.S.C. Section 153, and the dissemination consists of visual material provided by another person.

(d) An offense under this section is a state jail felony.

SECTION 2. This Act takes effect September 1, 2015.