

Publishing Images and Videos of Minor Children

Section 38.08 DEFINITIONS

- (a) In this chapter:
 - (1) An “image” refers to a photograph, video, drawing, computer-enhanced imagery, or any real or manipulated image of a minor child.
 - (2) “Minor Child” refers to a child under the age of 16 years old.
 - (3) The word “publish” refers to making a photograph, video, or image publically available by reproducing text or graphics in literary outlets, including but not limited to newspapers, books, magazines, editorials, or computer sites (including social networking sites) whether for business or personal use and whether for remuneration or without recompense.
 - (4) “Parental Consent” applies to biological or adoptive parents or legal guardian of a minor child. In the event of shared custody or multiple guardians of the minor child, only one consent is required.
 - (5) The term “himself” also includes female or transgender individuals.
 - (6) The term “blurred” means to distort beyond facial recognition.

SECTION 38.081. Publishing Images of a Minor Child

- (a) A person commits an offense if the person intentionally or knowingly publishes an image of a minor child for personal or commercial purposes with or without intent to harm, defraud, intimidate, and/or threaten the child.
 - (1) An exception to this offense is if the image is published with parental consent.
 - (2) It is an exception to this offense if the image is published in accordance with Chapter 63 of the Code of Criminal Procedure entitled “Missing Children and Missing Persons” and Chapter 58 of the Family Code entitled “Juvenile Justice Information System.”
 - (3) An offense is not committed if a child 16 years of age or older publishes images of himself as a minor child.
- (b) A person commits an offense under this section if a juvenile image of the minor child is published after the minor turns 16 years old without consent of the individual.
- (c) A person commits an offense under this section even if the image of the minor is not the primary or intended subject of the photograph, video, or imagery, in which case the minor’s image must be blurred.
- (d) An offense under this section is a Class C misdemeanor for a first offense.
 - (1) A second offense of this section is a Class B misdemeanor.
 - (2) A third offense is a Class A misdemeanor.
 - (3) A fourth or continued offense is punishable as a State Jail felony.