**T.P.I. – CRIM. 39.09**

**UNLAWFUL EXPOSURE**

Any person who commits the offense of unlawful exposure is guilty of a crime.

For you to find the defendant guilty of this offense, the state must have proven beyond a reasonable doubt the existence of the following essential elements:

(1) that the defendant, with intent to cause emotional distress, distributed an image of *[the intimate part or parts of another identifiable person]* ***[*only for offenses committed on or after 7/1/22:** *an identifiable person engaged in sexually explicit conduct]*;

and

(2) the image was *[photographed] [recorded]* under circumstances where the parties agreed or understood that the image would remain private;

and

(3) the person depicted in the image suffered emotional distress.

“Emotional distress” means significant mental suffering or distress that may, but does not necessarily, require medical or other professional treatment or counseling.

[**Only for offenses committed on or after 7/1/22:** "Identifiable person" means a person who is identifiable from the image itself or from information transmitted in connection with the image.]

"Intimate part" means any portion of the primary genital area, buttock,

or any portion of the female breast below the top of the areola that is either

uncovered or visible through less than fully opaque clothing.

["Sexually explicit conduct" means actual or simulated:

(A) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

(B) Bestiality;

(C) Masturbation;

(D) Lewd exhibition of the genitals or pubic area of any person;

(E) Flagellation or torture by or upon a person who is nude;

(F) Condition of being fettered, bound or otherwise physically restrained on the part of a person who is nude;

(G) Physical contact in an act of apparent sexual stimulation or gratification with any person's unclothed genitals, pubic area or buttocks or with a female's nude breasts;

(H) Defecation or urination for the purpose of sexual stimulation of the viewer; or

(I) Penetration of the vagina or rectum by any object except when done as part of a recognized medical procedure.]

“Intent” means that a person acts intentionally with respect to the nature of the conduct or to a result of the conduct when it is the person’s conscience objective or desire to engage in the conduct or cause the result.