
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1063 Session of
2023

INTRODUCED BY R. MACKENZIE, FLICK, KAUFFMAN, KENYATTA,
LEADBETER, M. MACKENZIE, PICKETT, SCIALABBA, SHUSTERMAN AND
STAATS, APRIL 28, 2023

REFERRED TO COMMITTEE ON JUDICIARY, APRIL 28, 2023

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, in sexual offenses, providing for the
3 offense of unlawful dissemination of artificially generated
4 depiction; and, in minors, further providing for the offense
5 of sexual abuse of children and for the offense of
6 transmission of sexually explicit images by minor.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Title 18 of the Pennsylvania Consolidated
10 Statutes is amended by adding a section to read:

11 § 3131.1. Unlawful dissemination of artificially generated
12 depiction.

13 (a) Offense defined.--Except as provided in sections 5903
14 (relating to obscene and other sexual materials and
15 performances), 6312 (relating to sexual abuse of children) and
16 6321 (relating to transmission of sexually explicit images by
17 minor), a person commits the offense of unlawful dissemination
18 of an artificially generated depiction if, with intent to
19 harass, annoy or alarm an individual, the person disseminates an

1 artificially generated depiction of the individual.

2 (b) Defense.--It is a defense to a prosecution under this
3 section that the actor disseminated the artificially generated
4 depiction with the consent of the individual depicted.

5 (c) Grading.--An offense under subsection (a) shall be:

6 (1) A misdemeanor of the first degree, when the
7 individual depicted is a minor.

8 (2) A misdemeanor of the second degree, when the
9 individual depicted is not a minor.

10 (d) Territorial applicability.--A person may be convicted
11 under the provisions of this section if the victim or the
12 offender is located within this Commonwealth.

13 (e) Nonapplicability.--Nothing in this section shall be
14 construed to apply to a law enforcement officer engaged in the
15 performance of the law enforcement officer's official duties.

16 (f) Concurrent jurisdiction to prosecute.--In addition to
17 the authority conferred upon the Attorney General by the act of
18 October 15, 1980 (P.L.950, No.164), known as the Commonwealth
19 Attorneys Act, the Attorney General shall have the authority to
20 investigate and institute criminal proceedings for any violation
21 of this section or any series of violations involving more than
22 one county of this Commonwealth or another state. No person
23 charged with a violation of this section by the Attorney General
24 shall have standing to challenge the authority of the Attorney
25 General to investigate or prosecute the case, and, if a
26 challenge is made, the challenge shall be dismissed, and no
27 relief shall be made available in the courts of this
28 Commonwealth to the person making the challenge.

29 (g) Definitions.--As used in this section, the following
30 words and phrases shall have the meanings given to them in this

1 subsection unless the context clearly indicates otherwise:

2 "Artificially generated depiction." A visual depiction:

3 (1) that appears to authentically depict an individual
4 in a state of nudity or engaged in sexual conduct that did
5 not occur in reality; and

6 (2) the production of which was substantially dependent
7 upon technical means, including artificial intelligence and
8 photoshop software, rather than the ability of another person
9 to physically impersonate the other person.

10 "Artificial intelligence." As defined in section 238(g) of
11 the John S. McCain National Defense Authorization Act for Fiscal
12 Year 2019 (Public Law 115-232, 132 Stat. 1636).

13 "Law enforcement officer." As defined in section 3131
14 (relating to unlawful dissemination of intimate image).

15 "Minor." As defined in section 3131.

16 "Nudity." As defined in section 5903(e).

17 "Photoshop." A software used primarily for editing
18 photographs, films or computer depictions that contains a
19 variety of filters, effects and tools that can be used to
20 manipulate photographs, films or computer depictions.

21 "Sexual conduct." As defined in section 5903(e).

22 "Visual depiction." As defined in section 6321.

23 Section 2. Section 6312(c), (d) and (f)(3) of Title 18 are
24 amended, the definition of "intentionally views" in subsection
25 (g) is amended and subsection (g) is amended by adding
26 definitions to read:

27 § 6312. Sexual abuse of children.

28 * * *

29 (c) Dissemination of photographs, videotapes, computer
30 depictions and films.--Any person who knowingly sells,

1 distributes, delivers, disseminates, transfers, displays or
2 exhibits to others, or who possesses for the purpose of sale,
3 distribution, delivery, dissemination, transfer, display or
4 exhibition to others, any artificially generated depiction or
5 book, magazine, pamphlet, slide, photograph, film, videotape,
6 computer depiction or other material depicting a child under the
7 age of 18 years engaging in a prohibited sexual act or in the
8 simulation of such act commits an offense.

9 (d) Child pornography.--Any person who intentionally views
10 or knowingly possesses or controls any artificially generated
11 depiction or book, magazine, pamphlet, slide, photograph, film,
12 videotape, computer depiction or other material depicting a
13 child under the age of 18 years engaging in a prohibited sexual
14 act or in the simulation of such act commits an offense.

15 * * *

16 (f) Exceptions.--This section does not apply to any of the
17 following:

18 * * *

19 (3) An individual under 18 years of age who knowingly
20 views, photographs, videotapes, depicts on a computer or
21 films or possesses or intentionally views a visual depiction
22 as defined in section 6321 or an artificially generated
23 depiction of himself alone in a state of nudity as defined in
24 section 6321.

25 * * *

26 (g) Definitions.--As used in this section, the following
27 words and phrases shall have the meanings given to them in this
28 subsection:

29 "Artificial intelligence." As defined in section 3131.1
30 (relating to unlawful dissemination of artificially generated

1 depiction).

2 "Artificially generated depiction." A book, magazine,
3 pamphlet, slide, photograph, videotape, film or computer
4 depiction:

5 (1) that appears to authentically depict a child under
6 18 years of age engaging in a prohibited sexual act or in the
7 simulation of such act that did not occur in reality; and

8 (2) the production of which was substantially dependent
9 upon technical means, including artificial intelligence and
10 photoshop software, rather than the ability of another person
11 to physically impersonate the child.

12 "Intentionally views." The deliberate, purposeful, voluntary
13 viewing of material containing an artificially generated
14 depiction or depicting a child under 18 years of age engaging in
15 a prohibited sexual act or in the simulation of such act. The
16 term shall not include the accidental or inadvertent viewing of
17 such material.

18 "Photoshop." As defined in section 3131.1.

19 * * *

20 Section 3. The definition of "sexually explicit image" in
21 section 6321(g) of Title 18 is amended and the subsection is
22 amended by adding definitions to read:

23 § 6321. Transmission of sexually explicit images by minor.

24 * * *

25 (g) Definitions.--As used in this section, the following
26 words and phrases shall have the meanings given to them in this
27 subsection unless the context clearly indicates otherwise:

28 "Artificial intelligence." As defined in section 3131.1
29 (relating to unlawful dissemination of artificially generated
30 depiction).

1 "Artificially generated depiction." Any visual depiction:

2 (1) that appears to authentically depict a child under
3 18 years of age engaged in conduct or an action or state of
4 nudity that did not occur in reality; and

5 (2) the production of which was substantially dependent
6 upon technical means, including artificial intelligence and
7 photoshop software, rather than the ability of another person
8 to physically impersonate the child.

9 * * *

10 "Photoshop." As defined in section 3131.1.

11 * * *

12 "Sexually explicit image." A lewd or lascivious visual
13 depiction or artificially generated depiction of a minor's
14 genitals, pubic area, breast or buttocks or nudity, if such
15 nudity is depicted for the purpose of sexual stimulation or
16 gratification of any person who might view such nudity.

17 * * *

18 Section 4. This act shall take effect in 60 days.