

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1213 Session of 2024

INTRODUCED BY PENNYCUICK, DILLON, BOSCOLA, KANE, TARTAGLIONE, BREWSTER, LANGERHOLC, PHILLIPS-HILL, HAYWOOD, BROWN, SCHWANK, SANTARSIERO, VOGEL, ROBINSON, MILLER, BARTOLOTTA, DUSH, AUMENT AND LAUGHLIN, MAY 29, 2024

AS REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, AS AMENDED, OCTOBER 8, 2024

AN ACT

1 Amending ~~Title~~ TITLES 18 (Crimes and Offenses) AND 61 (PRISONS <--
2 AND PAROLE) of the Pennsylvania Consolidated Statutes, in
3 sexual offenses, further providing for the offense of
4 unlawful dissemination of intimate image; ~~and,~~ in minors, <--
5 further providing for the offense of sexual abuse of children
6 and for the offense of transmission of sexually explicit
7 images by minor-; AND MAKING EDITORIAL CHANGES TO REPLACE <--
8 REFERENCES TO THE TERM "CHILD PORNOGRAPHY" WITH REFERENCES TO
9 THE TERM "CHILD SEXUAL ABUSE MATERIAL."

10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 ~~Section 1. Section 3131(a) and (c) of Title 18 of the <--
13 Pennsylvania Consolidated Statutes are amended and subsection
14 (g) is amended by adding definitions to read:~~

15 SECTION 1. SECTION 3051(K) OF TITLE 18 OF THE PENNSYLVANIA <--
16 CONSOLIDATED STATUTES IS AMENDED TO READ:

17 § 3051. CIVIL CAUSES OF ACTION.

18 * * *

19 (K) DEFINITIONS.--THE FOLLOWING WORDS AND PHRASES WHEN USED

1 IN THIS SECTION SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
2 SUBSECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

3 "SEX TRADE." AN ACT, WHICH IF PROVEN BEYOND A REASONABLE
4 DOUBT, COULD SUPPORT A CONVICTION FOR VIOLATION OR ATTEMPTED
5 VIOLATION OF CHAPTER 59 (RELATING TO PUBLIC INDECENCY) OR
6 SECTION 6312 (RELATING TO SEXUAL ABUSE OF CHILDREN).

7 "VICTIM OF THE SEX TRADE." AN INDIVIDUAL WHO HAS:

8 (1) BEEN THE OBJECT OF A SOLICITATION FOR PROSTITUTION;

9 (2) BEEN THE OBJECT OF A TRANSACTION IN A SEX ACT;

10 (3) BEEN INTENDED OR COMPELLED TO ENGAGE IN AN ACT OF
11 PROSTITUTION;

12 (4) BEEN INTENDED OR COMPELLED TO ENGAGE IN A SEX ACT;

13 (5) BEEN DESCRIBED OR DEPICTED IN MATERIAL THAT
14 ADVERTISES AN INTENT OR COMPULSION TO ENGAGE IN SEX ACTS; OR

15 (6) IN THE CASE OF OBSCENITY OR CHILD [PORNOGRAPHY HAS]
16 SEXUAL ABUSE MATERIAL, APPEARED IN OR BEEN DESCRIBED OR
17 DEPICTED IN THE OFFENDING CONDUCT OR MATERIAL.

18 SECTION 2. SECTION 3131(A) AND (C) OF TITLE 18 ARE AMENDED
19 AND SUBSECTION (G) IS AMENDED BY ADDING DEFINITIONS TO READ:

20 § 3131. Unlawful dissemination of intimate image.

21 (a) Offense defined.--Except as provided in sections 5903
22 (relating to obscene and other sexual materials and

23 performances), 6312 (relating to sexual abuse of children) and
24 6321 (relating to transmission of sexually explicit images by

25 minor), a person commits the offense of unlawful dissemination
26 of intimate image if, with intent to harass, annoy or alarm [a

27 current or former sexual or intimate partner] another, the

28 person disseminates [a visual depiction of the current or former

29 sexual or intimate partner in a state of nudity or engaged in

30 sexual conduct.];

1 (1) A visual depiction of the current or former sexual
2 or intimate partner in a state of nudity or engaged in sexual
3 conduct.

4 (2) An artificially generated sexual depiction of an
5 individual.

6 * * *

7 (c) Grading.--[An offense under subsection (a) shall be:]

8 (1) An offense under subsection (a)(1) shall be:

9 [(1)] (i) A misdemeanor of the first degree, when the
10 person depicted is a minor.

11 [(2)] (ii) A misdemeanor of the second degree, when the
12 person depicted is not a minor.

13 (2) An offense under subsection (a)(2) shall be:

14 (i) A misdemeanor of the first degree, when the
15 person depicted is a minor.

16 (ii) A misdemeanor of the second degree, when the
17 person depicted is not a minor.

18 * * *

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

22 "Artificial intelligence."

23 (1) A machine-based system that can, for a given set of
24 human-defined objectives, make predictions, recommendations
25 or decisions influencing real or virtual environments,
26 including the ability to:

27 (i) perceive real and virtual environments;

28 (ii) abstract perceptions made under paragraph (1)
29 into models through analysis in an automated manner; and

30 (iii) use model inference to formulate options for

1 information or action based on outcomes under
2 subparagraphs (i) and (ii).

3 (2) The term includes generative artificial
4 intelligence.

5 "Artificially generated sexual depiction." A visual
6 depiction:

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

10 (2) the production of which was substantially dependent
11 upon technical means, including artificial intelligence or
12 photo editing software, rather than the ability of another
13 person to physically impersonate the other person.

14 "Generative artificial intelligence." The class of models
15 that emulate the structure and characteristics of input data in
16 order to generate derived synthetic content, including
17 information such as images, videos, audio clips or text, that
18 has been significantly modified or generated by algorithms,
19 including by artificial intelligence.

20 * * *

21 "Photo editing software." A software used primarily for
22 editing photographs, videos or computer depictions that contains
23 a variety of filters, effects or tools that can be used to
24 manipulate photographs, videos or computer depictions.

25 * * *

26 Section 2 3. Section 6312(c), (d), (f)(3) and (g) of Title <--
27 18 are amended AND SUBSECTION (F) IS AMENDED BY ADDING A <--
28 PARAGRAPH to read:

29 § 6312. Sexual abuse of children.

30 * * *

1 (c) Dissemination of photographs, videotapes, computer
2 depictions and films.--Any person who knowingly sells,
3 distributes, delivers, disseminates, transfers, displays or
4 exhibits to others, or who possesses for the purpose of sale,
5 distribution, delivery, dissemination, transfer, display or
6 exhibition to others, any [book, magazine, pamphlet, slide,
7 photograph, film, videotape, computer depiction or other
8 material depicting a child under the age of 18 years engaging in
9 a prohibited sexual act or in the simulation of such act] child
10 sexual abuse material or artificially generated child sexual
11 abuse material commits an offense.

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

20 * * *

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

23 * * *

24 (3) An individual under 18 years of age who knowingly
25 views, photographs, videotapes, depicts on a computer or
26 films or possesses or intentionally views a visual depiction
27 or an artificially generated depiction as defined in section
28 6321 of himself alone in a state of nudity as defined in
29 section 6321.

30 (4) AN ARTIFICIAL INTELLIGENCE DEVELOPER OR ITS

<--

1 AUTHORIZED EMPLOYEE OR CONTRACTOR, WHO, UPON OBTAINING ACTUAL
2 KNOWLEDGE OF THE EXISTENCE OF ARTIFICIALLY GENERATED CHILD
3 SEXUAL ABUSE MATERIAL, IMMEDIATELY AS SOON AS REASONABLY <--
4 POSSIBLE REPORTS THE ARTIFICIALLY GENERATED CHILD SEXUAL
5 ABUSE MATERIAL TO A LAW ENFORCEMENT AGENCY. THE NATIONAL <--
6 CENTER FOR MISSING AND EXPLOITED CHILDREN, OR ANY SUCCESSOR
7 ENTITY, IN COMPLIANCE WITH 18 U.S.C. § 2258A (RELATING TO
8 REPORTING REQUIREMENTS OF PROVIDERS) AND 18 U.S.C. § 2258B
9 (RELATING TO LIMITED LIABILITY FOR THE REPORTING, STORAGE,
10 AND HANDLING OF CERTAIN VISUAL DEPICTIONS OF APPARENT CHILD
11 PORNOGRAPHY TO THE NATIONAL CENTER FOR MISSING & EXPLOITED
12 CHILDREN).

13 * * *

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

17 "Artificial intelligence." As defined in section 3131
18 (relating to unlawful dissemination of intimate image).

19 "ARTIFICIAL INTELLIGENCE DEVELOPER." A PERSON THAT DESIGNS, <--
20 CODES OR PRODUCES AN ARTIFICIAL INTELLIGENCE SYSTEM AND MAKES
21 THE SYSTEM COMMERCIALY AVAILABLE WHETHER FOR PAYMENT OR FREE OF
22 CHARGE.

23 "Artificially generated child sexual abuse material." A
24 book, magazine, pamphlet, slide, photograph, videotape, film,
25 computer depiction or other material:

26 (1) that appears to authentically depict a child under
27 18 years of age engaging in a prohibited sexual act or in the
28 simulation of such act that did not occur in reality; and

29 (2) the production of which was substantially dependent
30 upon technical means, including artificial intelligence or

1 photo editing software, rather than the ability of another
2 person to physically impersonate the child.

3 "Child sexual abuse material." A book, magazine, pamphlet,
4 slide, photograph, film, videotape, computer depiction or other
5 material depicting a child under 18 years of age engaging in a
6 prohibited sexual act or in the simulation of a prohibited
7 sexual act.

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

14 "Photo editing software." As defined in section 3131.

15 "Prohibited sexual act." Sexual intercourse as defined in
16 section 3101 (relating to definitions), masturbation, sadism,
17 masochism, bestiality, fellatio, cunnilingus, lewd exhibition of
18 the genitals or nudity if such nudity is depicted for the
19 purpose of sexual stimulation or gratification of any person who
20 might view such depiction.

21 Section 3 4. The definition of "sexually explicit image" in <--
22 section 6321(g) of Title 18 is amended and the subsection is
23 amended by adding definitions to read:

24 § 6321. Transmission of sexually explicit images by minor.

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 unless the context clearly indicates otherwise:

29 "Artificial intelligence." As defined in section 3131
30 (relating to unlawful dissemination of intimate image).

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 photo editing software, rather than the ability of another
8 person to physically impersonate the child.

9 * * *

10 "Photo editing software." As defined in section 3131.

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 5. SUBCHAPTER C HEADING OF CHAPTER 76 OF TITLE 18 IS <--
19 AMENDED TO READ:

20 SUBCHAPTER C

21 INTERNET CHILD [PORNOGRAPHY] SEXUAL ABUSE MATERIAL

22 SECTION 6. THE DEFINITION OF "CHILD PORNOGRAPHY" IN SECTION
23 7621 OF TITLE 18 IS AMENDED AND THE SECTION IS AMENDED BY ADDING
24 A DEFINITION TO READ:

25 § 7621. DEFINITIONS.

26 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS SUBCHAPTER
27 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
28 CONTEXT CLEARLY INDICATES OTHERWISE:

29 "CHILD PORNOGRAPHY." [AS DESCRIBED IN SECTION 6312 (RELATING
30 TO SEXUAL ABUSE OF CHILDREN).] THE TERM SHALL HAVE THE SAME

1 MEANING AS CHILD SEXUAL ABUSE MATERIAL.

2 "CHILD SEXUAL ABUSE MATERIAL." AS DESCRIBED IN SECTION
3 6312(D) (RELATING TO SEXUAL ABUSE OF CHILDREN).

4 * * *

5 SECTION 7. SECTIONS 7622 AND 7626(2) OF TITLE 18 ARE AMENDED
6 TO READ:

7 § 7622. DUTY OF INTERNET SERVICE PROVIDER.

8 AN INTERNET SERVICE PROVIDER SHALL REMOVE OR DISABLE ACCESS
9 TO CHILD [PORNOGRAPHY] SEXUAL ABUSE MATERIAL ITEMS RESIDING ON
10 OR ACCESSIBLE THROUGH ITS SERVICE IN A MANNER ACCESSIBLE TO
11 PERSONS LOCATED WITHIN THIS COMMONWEALTH WITHIN FIVE BUSINESS
12 DAYS OF WHEN THE INTERNET SERVICE PROVIDER IS NOTIFIED BY THE
13 ATTORNEY GENERAL PURSUANT TO SECTION 7628 (RELATING TO
14 NOTIFICATION PROCEDURE) THAT CHILD [PORNOGRAPHY] SEXUAL ABUSE
15 MATERIAL ITEMS RESIDE ON OR ARE ACCESSIBLE THROUGH ITS SERVICE.

16 § 7626. APPLICATION FOR ORDER TO REMOVE OR DISABLE ITEMS.

17 AN APPLICATION FOR AN ORDER OF AUTHORIZATION TO REMOVE OR
18 DISABLE ITEMS RESIDING ON OR ACCESSIBLE THROUGH AN INTERNET
19 SERVICE PROVIDER'S SERVICE SHALL BE MADE TO THE COURT OF COMMON
20 PLEAS HAVING JURISDICTION IN WRITING UPON THE PERSONAL OATH OR
21 AFFIRMATION OF THE ATTORNEY GENERAL OR A DISTRICT ATTORNEY OF
22 THE COUNTY WHEREIN THE ITEMS HAVE BEEN DISCOVERED AND, IF
23 AVAILABLE, SHALL CONTAIN ALL OF THE FOLLOWING INFORMATION:

24 * * *

25 (2) A STATEMENT OF THE IDENTITY OF THE INVESTIGATIVE OR
26 LAW ENFORCEMENT OFFICER THAT HAS, IN THE OFFICIAL SCOPE OF
27 THAT OFFICER'S DUTIES, DISCOVERED THE CHILD [PORNOGRAPHY]
28 SEXUAL ABUSE MATERIAL ITEMS.

29 * * *

30 SECTION 8. PARAGRAPH (4) OF THE DEFINITION OF "ELIGIBLE

1 PERSON" IN SECTION 4503 OF TITLE 61 IS AMENDED TO READ:

2 § 4503. DEFINITIONS.

3 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
4 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
5 CONTEXT CLEARLY INDICATES OTHERWISE:

6 * * *

7 "ELIGIBLE PERSON." A DEFENDANT OR INMATE CONVICTED OF A
8 CRIMINAL OFFENSE WHO WILL BE COMMITTED TO THE CUSTODY OF THE
9 DEPARTMENT AND WHO MEETS ALL OF THE FOLLOWING ELIGIBILITY
10 REQUIREMENTS:

11 * * *

12 (4) HAS NOT BEEN FOUND GUILTY OR PREVIOUSLY CONVICTED OR
13 ADJUDICATED DELINQUENT FOR VIOLATING ANY OF THE FOLLOWING
14 PROVISIONS OR AN EQUIVALENT OFFENSE UNDER THE LAWS OF THE
15 UNITED STATES OR ONE OF ITS TERRITORIES OR POSSESSIONS,
16 ANOTHER STATE, THE DISTRICT OF COLUMBIA, THE COMMONWEALTH OF
17 PUERTO RICO OR A FOREIGN NATION OR CRIMINAL ATTEMPT, CRIMINAL
18 SOLICITATION OR CRIMINAL CONSPIRACY TO COMMIT ANY OF THESE
19 OFFENSES:

20 18 PA.C.S. § 4302(A) (RELATING TO INCEST).

21 18 PA.C.S. § 5901 (RELATING TO OPEN LEWDNESS).

22 18 PA.C.S. CH. 76 SUBCH. C (RELATING TO INTERNET
23 CHILD [PORNOGRAPHY] SEXUAL ABUSE MATERIAL).

24 RECEIVED A CRIMINAL SENTENCE PURSUANT TO 42 PA.C.S. §
25 9712.1 (RELATING TO SENTENCES FOR CERTAIN DRUG OFFENSES
26 COMMITTED WITH FIREARMS).

27 ANY OFFENSE LISTED UNDER 42 PA.C.S. CH. 97 SUBCH. H
28 (RELATING TO REGISTRATION OF SEXUAL OFFENDERS) OR I
29 (RELATING TO CONTINUED REGISTRATION OF SEXUAL OFFENDERS).

30 DRUG TRAFFICKING AS DEFINED IN SECTION 4103 (RELATING

1 TO DEFINITIONS).

2 * * *

3 SECTION 9. PARAGRAPH (4) OF THE DEFINITION OF "ELIGIBLE
4 OFFENDER" IN SECTION 4601 OF TITLE 61 IS AMENDED TO READ:
5 § 4601. DEFINITIONS.

6 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
7 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
8 CONTEXT CLEARLY INDICATES OTHERWISE:

9 "ELIGIBLE OFFENDER." A DEFENDANT OR INMATE CONVICTED OF A
10 CRIMINAL OFFENSE WHO WILL BE COMMITTED TO THE CUSTODY OF THE
11 COUNTY AND WHO MEETS ALL OF THE FOLLOWING ELIGIBILITY
12 REQUIREMENTS:

13 * * *

14 (4) HAS NOT BEEN FOUND GUILTY OR PREVIOUSLY CONVICTED OR
15 ADJUDICATED DELINQUENT FOR VIOLATING ANY OF THE FOLLOWING
16 PROVISIONS OR AN EQUIVALENT OFFENSE UNDER THE LAWS OF THE
17 UNITED STATES OR ONE OF ITS TERRITORIES OR POSSESSIONS,
18 ANOTHER STATE, THE DISTRICT OF COLUMBIA, THE COMMONWEALTH OF
19 PUERTO RICO OR A FOREIGN NATION:

20 18 PA.C.S. § 4302(A) (RELATING TO INCEST).

21 18 PA.C.S. § 5901 (RELATING TO OPEN LEWDNESS).

22 18 PA.C.S. CH. 76 SUBCH. C (RELATING TO INTERNET
23 CHILD [PORNOGRAPHY] SEXUAL ABUSE MATERIAL).

24 RECEIVED A CRIMINAL SENTENCE PURSUANT TO 42 PA.C.S. §
25 9712.1 (RELATING TO SENTENCES FOR CERTAIN DRUG OFFENSES
26 COMMITTED WITH FIREARMS).

27 ANY OFFENSE FOR WHICH REGISTRATION IS REQUIRED UNDER
28 42 PA.C.S. CH. 97 SUBCH. H (RELATING TO REGISTRATION OF
29 SEXUAL OFFENDERS).

30 * * *

1 SECTION 10. SECTION 6137.1(A)(4) OF TITLE 61 IS AMENDED TO
2 READ:

3 § 6137.1. SHORT SENTENCE PAROLE.

4 (A) GENERAL RULE.--THIS SECTION APPLIES TO PERSONS COMMITTED
5 TO THE DEPARTMENT WITH AN AGGREGATE MINIMUM SENTENCE OF
6 CONFINEMENT UNDER 42 PA.C.S. § 9756(B) (RELATING TO SENTENCE OF
7 TOTAL CONFINEMENT) OF TWO YEARS OR LESS OR A RECIDIVISM RISK
8 REDUCTION INCENTIVE MINIMUM SENTENCE UNDER 42 PA.C.S. §
9 9756(B.1) OF TWO YEARS OR LESS, WHICHEVER IS SHORTER. REGARDLESS
10 OF SENTENCE IMPOSED, THIS SECTION DOES NOT APPLY TO:

11 * * *

12 (4) PERSONS COMMITTED FOR OR WITH AN AGGREGATE SENTENCE
13 CONTAINING A VIOLATION OF ANY OF THE FOLLOWING PROVISIONS OR
14 AN EQUIVALENT OFFENSE UNDER THE LAWS OF THE UNITED STATES OR
15 ONE OF ITS TERRITORIES OR POSSESSIONS, ANOTHER STATE, THE
16 DISTRICT OF COLUMBIA, THE COMMONWEALTH OF PUERTO RICO OR A
17 FOREIGN NATION, INCLUDING A CRIMINAL ATTEMPT, CRIMINAL
18 SOLICITATION OR CRIMINAL CONSPIRACY TO COMMIT THE OFFENSE:

19 18 PA.C.S. § 4302(A) (RELATING TO INCEST).

20 18 PA.C.S. § 5901 (RELATING TO OPEN LEWDNESS).

21 18 PA.C.S. CH. 76 SUBCH. C (RELATING TO INTERNET
22 CHILD [PORNOGRAPHY] SEXUAL ABUSE MATERIAL).

23 A CRIMINAL SENTENCE PURSUANT TO 42 PA.C.S. § 9712.1
24 (RELATING TO SENTENCES FOR CERTAIN DRUG OFFENSES
25 COMMITTED WITH FIREARMS).

26 AN OFFENSE LISTED UNDER 42 PA.C.S. CH. 97 SUBCH. H
27 (RELATING TO REGISTRATION OF SEXUAL OFFENDERS).

28 AN OFFENSE LISTED UNDER 42 PA.C.S. CH. 97 SUBCH. I
29 (RELATING TO CONTINUED REGISTRATION OF SEXUAL OFFENDERS).

30 * * *

1 Section ~~4~~ 11. This act shall take effect in 60 days.

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