

The House Committee on Judiciary Non-civil offers the following substitute to HB 103:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 2 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated,  
2 relating to offenses against public order, so as to prohibit any person from causing a minor  
3 to be identified as the individual in an obscene depiction; to provide for definitions; to  
4 provide for venue; to provide for exceptions; to provide for penalties; to provide for a short  
5 title; to provide for related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 This Act shall be known and may be cited as "Kelsey's Law."

9 **SECTION 2.**

10 Article 2 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to  
11 offenses against public order, is amended by adding a new Code section to read as follows:

12 "16-11-40.1.

13 (a) As used in this Code section, the term:

14 (1) 'Minor' means an individual who is under the age of 18 years.

15 (2) 'Nudity' shall have the same meaning as set forth in Code Section 16-11-90.

16 (3) 'Obscene depiction' means a visual depiction of an individual displaying nudity or  
17 sexually explicit conduct.

18 (4) 'Sexually explicit conduct' shall have the same meaning as set forth in Code Section  
19 16-12-100.

20 (b) No person shall intentionally cause a minor to be identified as the individual in an  
21 obscene depiction in such a manner that a reasonable person would conclude that the image  
22 depicted was that of such minor. Such identification shall include, without limitation, the  
23 minor's name, address, telephone number, e-mail address, username, or other electronic  
24 identification. Such identification shall also include the electronic imposing of the facial  
25 image of a minor onto an obscene depiction.

26 (c) Any person convicted of violating this Code section shall be guilty of a misdemeanor;  
27 provided, however, that upon a second or subsequent violation of this Code section, he or  
28 she shall be guilty of a felony and, upon conviction thereof, shall be punished by  
29 imprisonment of not less than one nor more than five years, a fine of not more than  
30 \$100,000.00, or both.

31 (d) A person shall be subject to prosecution in this state pursuant to Code Section 17-2-1  
32 for any conduct made unlawful by this Code section in which such person engages while:

33 (1) Either within or outside of this state if, by such conduct, the person commits a  
34 violation of this Code section which involves an individual who resides in this state; or

35 (2) Within this state if, by such conduct, the person commits a violation of this Code  
36 section which involves an individual who resides within or outside this state.

37 (e) The provisions of subsection (b) of this Code section shall not apply to:

38 (1) The activities of law enforcement and prosecution agencies in the investigation and  
39 prosecution of criminal offenses; or

40 (2) An image and identification made pursuant to or in anticipation of a civil action.

41 (f) Any violation of this Code section shall constitute a separate offense and shall not  
42 merge with any other crimes set forth in this title."

43 **SECTION 3.**

44 All laws and parts of laws in conflict with this Act are repealed.