

House Bill 1361

By: Representatives Thomas of the 21st, Smith of the 18th, Silcox of the 53rd, Cheokas of the 151st, Reeves of the 99th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to
2 offenses against public health and morals, so as to prohibit distribution of computer
3 generated obscene material depicting a child; to provide for definitions; to provide for
4 penalties; to provide for affirmative defenses; to provide for other matters; to repeal
5 conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to offenses against
9 public health and morals, is amended by repealing Code Section 16-12-80, relating to
10 distributing obscene material, obscene material defined, and penalty, and enacting a new
11 Code Section 16-12-80 to read as follows:

12 "16-12-80.

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

14 (1) 'Artificial intelligence system' means an engineered or machine based system that
15 emulates the capability of a person to receive audio, visual, text, or any other form of
16 information and uses the information received to emulate a human cognitive process,

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including, but not limited to, learning, generalizing, reasoning, planning, predicting, acting, or communicating; provided, however, that artificial intelligence systems may vary in the forms of information they can receive and in the human cognitive processes they can emulate.

(2) 'Child' means any person under the age of 16 years.

(3) 'Sexually explicit conduct' shall have the same meaning as provided in Code Section 16-12-100.

(b) Any person commits the crime of distribution of computer generated obscene material depicting a child when he or she knowingly produces, distributes, solicits, or possesses with intent to distribute a visual depiction of any kind, including an electronic image, electronic video, drawing, sculpture, or painting, that:

(1) Depicts an image that appears to be of a child, and that would appear to an average observer to be authentic, engaging in sexually explicit conduct, whether between persons of the same or opposite sex;

(2) Is obscene; and

(3) Was created through the use of an artificial intelligence system.

(c) Material not otherwise obscene may be obscene under this Code section if the distribution thereof, the offer to distribute, or the possession with the intent to distribute is a commercial exploitation of an image that appears to be of a child, solely for the sake of prurient appeal.

(d) A person who commits the crime proscribed in subsection (b) of this Code section shall be guilty of a felony and punished by a fine of not more than \$5,000.00, by imprisonment for not less than one year nor more than 15 years, or both.

(e) It is not a required element of an offense under this Code section that the child depicted actually exists.

(f) Material is obscene if:

(1) To an average person, applying contemporary community standards, taken as a whole, it predominantly appeals to the prurient interest, that is, a shameful or morbid interest in nudity, sex, or excretion;

(2) The material taken as a whole lacks serious literary, artistic, political, or scientific value; and

(3) The material depicts or describes, in a patently offensive way, sexual conduct.

(g) It is an affirmative defense under this Code section that dissemination of the material was restricted to:

(1) A person associated with an institution of higher learning, either as a member of the faculty or a matriculated student, teaching or pursuing a course of study related to such material; or

(2) A person whose receipt of such material was authorized in writing by a licensed medical practitioner or psychiatrist.

(h) If the court orders a sentence to be probated in whole or in part, as a condition the court may impose any or all of the requirements set forth in subsection (b) of Code Section 42-8-35."

SECTION 2.

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