

House Bill 1361 (COMMITTEE SUBSTITUTE)

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 Title 16 of the Official Code of Georgia Annotated, relating to crimes and
2 offenses, so as to provide for the offense of criminal trespass involving a wild animal; to
3 provide for definitions; to provide for penalties; to provide for an exception; to prohibit
4 distribution of computer generated obscene material depicting a child; to provide for
5 definitions; to provide for penalties; to provide for affirmative defenses; to provide for other
6 matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is
10 amended by adding a new Code section to Article 2 of Chapter 7, relating to criminal
11 trespass and damage to property, to read as follows:

12 "16-7-21.1.

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

14 (1) 'Harass' means to engage in any act which demonstrates a disregard for the
15 well-being of a wild animal, or which creates the likelihood of injury to or disrupts

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normal behavior patterns of the wild animal, such as feeding, watering, resting, and breeding.

(2) 'Wild animal' means any land or sea animal currently or historically found in the wild, other than a domestic animal or livestock, including an animal kept, exhibited, or housed at any facility operating with the purpose of public visitation, conservation, education, or science, including but not limited to a zoological institution as defined in paragraph (87) of Code Section 48-8-3, and any animal kept, exhibited, or housed in aquariums, safaris, or animal sanctuaries.

(b)(1) A person commits the offense of criminal trespass involving a wild animal in the first degree if such person enters a cage, enclosure, or other area where a wild animal is housed or otherwise contained, into which the person knows he or she has no legal authority, license, or permission to enter, and harasses the wild animal and such wild animal suffers an injury or death.

(2) A person commits the offense of criminal trespass involving a wild animal in the second degree if such person enters a cage, enclosure, or other area where a wild animal is housed or otherwise contained, into which the person knows he or she has no legal authority, license, or permission to enter.

(c)(1) A person convicted of the offense of criminal trespass involving a wild animal in the first degree shall be guilty of a felony and shall be punished by imprisonment for not less than one nor more than ten years.

(2) A person convicted of the offense of criminal trespass involving a wild animal in the second degree shall be guilty of a misdemeanor and punished by imprisonment for not more than 12 months.

(d) In addition to any other fine, penalty, or restitution which may be imposed by law, such person would be liable for the cost of any damage to, and loss of, property connected to the criminal trespass, including, but not limited to, the injury or death of the wild animal.

(e) It shall not be an affirmative defense to prosecution under this Code section that:

(1) Entry into the cage, enclosure, or other area where the wild animal was housed or otherwise contained was not sufficiently guarded, locked, or otherwise made inaccessible so as to prevent entry into the cage, enclosure, or other area;

(2) The wild animal was provoked by means other than the presence of the person in the cage, enclosure, or other area; or

(3) Injury to the wild animal was necessary to protect the person from injury or death.

(f) Subsection (b) of this Code section shall not apply to a person who enters a cage, enclosure, or other area for the purpose of aiding another person or a wild animal in the cage, enclosure, or other area."

SECTION 2.

Said title is further amended by repealing Code Section 16-12-80, relating to distributing obscene material, obscene material defined, and penalty, and enacting a new Code Section 16-12-80 to read as follows:

"16-12-80.

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

(1) 'Artificial intelligence system' means an engineered or machine based system that emulates the capability of a person to receive audio, visual, text, or any other form of information and uses the information received to emulate a human cognitive process, 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 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 realistic to an average observer, 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) A person who commits the crime proscribed in subsection (b) of this Code section shall be guilty of a felony and punished by imprisonment for not less than one year nor more than 15 years.

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

(e) 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.

(f) 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

99 **SECTION 3.**
100 All laws and parts of laws in conflict with this Act are repealed.

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