

House Bill 171

By: Representatives Thomas of the 21st, Jones of the 25th, Donatucci of the 105th, Hagan of the 156th, Carson of the 46th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 1 of Article 3 of Chapter 12 of Title 16 of the Official Code of Georgia
2 Annotated, relating to general provisions relative to obscenity and related offenses, so as to
3 repeal and replace Code Section 16-12-80, relating to obscene material, distribution, and
4 penalty; to prohibit distribution of computer generated obscene material depicting a child;
5 to provide for a standard for obscenity; to provide for a penalty and probation; to amend
6 Article 1 of Chapter 10 of Title 17 of the Official Code of Georgia Annotated, relating to
7 procedure for sentencing and imposition of punishment, so as to provide for sentencing of
8 defendants who utilize artificial intelligence in the commission of certain crimes; to provide
9 for notices for enhanced sentencing, and enhanced sentencing; to provide for definitions; to
10 provide for related matters; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Part 1 of Article 3 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated,
14 relating to general provisions relative to obscenity and related offenses, is amended by
15 repealing Code Section 16-12-80, relating to distributing obscene material, obscene material
16 defined, and penalty, and enacting a new Code Section 16-12-80 to read as follows:

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17 "16-12-80.

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

19 (1) 'Artificial intelligence system' shall have the same meaning as set forth in Code
20 Section 17-10-22.

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

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

24 (b) Any person commits the crime of distribution of computer generated obscene material
25 depicting a child when they knowingly distribute, solicit, or possess with intent to distribute
26 a visual depiction of any kind, including an electronic image, electronic video, drawing,
27 sculpture, or painting, that:

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

31 (2) Is obscene as set forth in subsection (e) of this Code section; and

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

33 (c) A person who commits the crime proscribed in subsection (b) of this Code section shall
34 be guilty of a felony and punished by imprisonment for not less than one year nor more
35 than 15 years.

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

38 (e) Material identified in subsection (b) of this Code section is obscene if:

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

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

44 (3) The material depicts or describes, in a patently offensive way, sexually explicit
45 conduct.

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

49 **SECTION 2.**

50 Article 1 of Chapter 10 of Title 17 of the Official Code of Georgia Annotated, relating to
51 procedure for sentencing and imposition of punishment, is amended by adding a new Code
52 section to read as follows:

53 "17-10-22.

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

55 (1) 'Artificial intelligence system' means an engineered or machine based system that
56 emulates the capability of a person to receive audio, visual, text, or any other form of
57 information and use such information to emulate a human cognitive process, including,
58 but not limited to, learning, generalizing, reasoning, planning, predicting, acting, or
59 communicating; provided, however, that artificial intelligence systems may vary in the
60 forms of information they can receive and in the human cognitive processes they can
61 emulate.

62 (2) 'Designated offense' means:

63 (A) Stalking in violation of Code Section 16-5-90;

64 (B) Aggravated stalking in violation of Code Section 16-5-91;

65 (C) Exploitation of a disabled adult, elder person, or resident in violation of Code
66 Section 16-5-102;

67 (D) Enticing a child for indecent purposes in violation of Code Section 16-6-5;

68 (E) Publication or other dissemination of the name or identity of female raped or
69 assaulted with intent to commit rape in violation of Code Section 16-6-23;

70 (F) Any misdemeanor or felony offense provided for in Article 1 of Chapter 8 of
71 Title 16;

72 (G) Any misdemeanor or felony offense provided for in Article 3 of Chapter 8 of
73 Title 16;

74 (H) Any misdemeanor or felony offense provided for in Article 5 of Chapter 8 of
75 Title 16;

76 (I) Any misdemeanor or felony offense provided for in Chapter 9 of Title 16;

77 (J) Any misdemeanor or felony offense provided for in Chapter 10 of Title 16;

78 (K) Any misdemeanor or felony offense provided for in Chapter 11 of Title 16;

79 (L) Any misdemeanor or felony offense provided for in Chapter 12 of Title 16; and

80 (M) Fraudulent election interference in violation of Code Section 21-2-604.

81 (3) 'Use an artificial intelligence system' means to be the proximate cause of an artificial
82 intelligence system receiving an input or providing an output.

83 (b) In a case where notice has been given pursuant to subsection (c) of this Code section,
84 the trier of fact shall initially determine the defendant's guilt on the designated offense or
85 designated offenses charged. If the trier of fact finds the defendant guilty of such
86 designated offense or designated offenses, the trial shall immediately be recommenced to
87 receive evidence as is relevant to determine whether the defendant knowingly and
88 intentionally used an artificial intelligence system in the commission of a designated
89 offense as set forth in the notice given pursuant to subsection (c) of this Code section.

90 (c) At any time after the filing of an indictment or accusation, but not later than the
91 arraignment, the state shall notify the defendant of its intention to seek the enhanced
92 penalty or penalties authorized by subsection (d) of this Code section. Such notice shall
93 be in writing and shall allege the specific factor or factors authorizing an enhanced
94 sentence in the case pursuant to this Code section.

95 (d) If the trier of fact determines beyond a reasonable doubt that the defendant knowingly
96 and intentionally used an artificial intelligence system in the commission of a designated

97 offense as set forth in the notice given pursuant to subsection (c) of this Code section, the
98 judge shall enhance the sentence imposed in accordance with subsections (e) and (f) of this
99 Code section.

100 (e) Subject to the notice requirement provided for in subsection (c) of this Code section
101 and in enhancement of the penalty imposed, if the trier of fact determines beyond a
102 reasonable doubt that the defendant knowingly and intentionally utilized artificial
103 intelligence in the commission of a designated offense, the judge imposing sentence shall:

104 (1) If the designated offense for which the defendant was convicted is a misdemeanor,
105 impose a sentence of confinement for a period of not less than six nor more than 12
106 months and a fine not to exceed \$5,000.00; or

107 (2) If the designated offense for which the defendant was convicted is a felony, impose
108 a sentence of imprisonment for a period of not less than two years and a fine not less than
109 \$5,000.00.

110 (f) The judge shall state when he or she imposes the sentence the amount of the
111 enhancement of the sentence based on the application of subsection (e) of this Code
112 section."

113 **SECTION 3.**

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