

The Senate Committee on Judiciary offered the following substitute to SB 9:

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 offenses; to provide
9 for notices for enhanced sentencing, and enhanced sentencing; to provide for definitions; to
10 provide for a short title; to provide for related matters; to provide for an effective date and
11 applicability; to repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **SECTION 1.**

14 This Act shall be known and may be cited as the "Ensuring Accountability for Illegal AI
15 Activities Act."

16

SECTION 2.

17 Part 1 of Article 3 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated,
18 relating to general provisions relative to obscenity and related offenses, is amended by
19 repealing Code Section 16-12-80, relating to distributing obscene material, obscene material
20 defined, and penalty, and enacting a new Code Section 16-12-80 to read as follows:
21 "16-12-80.

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

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

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

26 (3) 'Obscene' means material which meets the following requirements:

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

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

32 (C) The material depicts or describes, in a patently offensive way, sexually explicit
33 conduct.

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

36 (b) A person commits the offense of distribution of computer generated obscene material
37 depicting a child when they knowingly distribute, solicit, or possess with intent to distribute
38 a visual depiction of any kind, including an electronic image, electronic video, drawing,
39 sculpture, or painting, that:

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

43 (2) Is obscene; and

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

45 (c) A person who commits the offense of distribution of computer generated obscene
 46 material depicting a child shall be guilty of a felony and, upon conviction thereof, shall be
 47 punished by imprisonment for not less than one year nor more than 15 years.

48 (d) It shall not be a required element of an offense under this Code section that the image
 49 of a child in such depiction is of a child who actually exists.

50 (e) If the sentence imposed under this Code section is probated, in whole or in part, by the
 51 sentencing court, as a condition of such probation, the sentencing court shall have the
 52 discretion to impose any or all of the requirements set forth in subsection (b) of Code
 53 Section 42-8-35."

54 **SECTION 3.**

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

58 "17-10-22.

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

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

67 (2) 'Designated offense' means:

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

- 69 (B) Aggravated stalking in violation of Code Section 16-5-91;
70 (C) Exploitation of a disabled adult, elder person, or resident in violation of Code
71 Section 16-5-102;
72 (D) Enticing a child for indecent purposes in violation of Code Section 16-6-5;
73 (E) Any misdemeanor or felony offense provided for in Article 1 of Chapter 8 of
74 Title 16;
75 (F) Any misdemeanor or felony offense provided for in Article 3 of Chapter 8 of
76 Title 16;
77 (G) Any misdemeanor or felony offense provided for in Article 5 of Chapter 8 of
78 Title 16;
79 (H) Any misdemeanor or felony offense provided for in Chapter 9 of Title 16;
80 (I) Any misdemeanor or felony offense provided for in Chapter 10 of Title 16;
81 (J) Any misdemeanor or felony offense provided for in Chapter 11 of Title 16;
82 (K) Any misdemeanor or felony offense provided for in Chapter 12 of Title 16; and
83 (L) Fraudulent election interference in violation of Code Section 21-2-604.
84 (3) 'Use an artificial intelligence system' means to be the proximate cause of an artificial
85 intelligence system receiving an input or providing an output.
86 (b) Subject to the notice requirement provided in subsection (c) of this Code section and
87 in enhancement of the penalty imposed, if the trier of fact determines beyond a reasonable
88 doubt that the defendant knowingly and intentionally utilized artificial intelligence in the
89 commission of a designated offense, the judge imposing sentence shall:
90 (1) If the designated offense for which the defendant was convicted is a misdemeanor,
91 impose a sentence of confinement for a period of not less than six nor more than 12
92 months and a fine not to exceed \$5,000.00; or
93 (2) If the designated offense for which the defendant was convicted is a felony, impose
94 a sentence of imprisonment for a period of not less than two years and a fine not less than
95 \$5,000.00; provided, however, that, if such designated offense is subject to a minimum

96 sentence of imprisonment for two years or more, the judge shall impose a sentence of
97 imprisonment for not less than such minimum sentence plus one year and a fine of not
98 less than \$5,000.00.

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

104 (d) The judge shall state when he or she imposes the sentence the amount of the
105 enhancement of the sentence based on the application of subsection (b) of this Code
106 section."

107 **SECTION 4.**

108 This Act shall become effective upon its approval by the Governor or upon its becoming law
109 without such approval and shall apply to all offenses committed on or after the effective date
110 of this Act.

111 **SECTION 5.**

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