

The House Committee on Judiciary, Non-Civil offers the following substitute to HB 171:

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 prohibit distribution of computer generated obscene material depicting a child; to provide for
4 a standard for obscenity; to provide for a penalty and probation; to amend Article 1 of
5 Chapter 10 of Title 17 of the Official Code of Georgia Annotated, relating to procedure for
6 sentencing and imposition of punishment, so as to provide for sentencing of defendants who
7 utilize artificial intelligence in the commission of certain offenses; to provide for notice and
8 enhanced sentencing; to amend Titles 20 and 32 of the Official Code of Georgia Annotated,
9 relating to education and highways, bridges, and ferries, respectively, so as to replace
10 cross-references to Code Section 16-12-80 with Code Section 16-12-80.1; to provide for
11 definitions; to provide for a short title; to provide for related matters; to provide for an
12 effective date and applicability; to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

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

H. B. 171 (SUB)

- 1 -

SECTION 2.

17

18 Part 1 of Article 3 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated,
19 relating to general provisions relative to obscenity and related offenses, is amended by
20 adding a new Code section to read as follows:

21 "16-12-80.1.

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 such person knowingly distributes, solicits, or possesses with intent
38 to distribute a visual depiction of any kind, including an electronic image, electronic video,
39 drawing, 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 currently or previously living individual.

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 (f) For purposes of this Code section, a person who, in the course of processing or
55 producing visual or printed matter either privately or commercially, has reasonable cause
56 to believe that the visual or printed matter submitted for processing or producing depicts
57 what appears to be a minor engaged in sexually explicit conduct shall immediately report
58 such incident, or cause a report to be made, to the National Center for Missing and
59 Exploited Children, in addition to the Georgia Bureau of Investigation or the law
60 enforcement agency for the county in which such matter is submitted. Any person
61 participating in the making of a report or causing a report to be made pursuant to this
62 subsection or participating in any judicial proceeding or any other proceeding resulting
63 therefrom shall in so doing be immune from any civil or criminal liability that might
64 otherwise be incurred or imposed, provided such participation pursuant to this subsection
65 is made in good faith.

66 (g) The provisions of subsection (b) of this Code section shall not apply to the activities
67 of law enforcement and prosecution agencies in the investigation and prosecution of
68 criminal offenses."

SECTION 3.

69

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

73 "17-10-22.

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

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

82 (2) 'Designated offense' means:

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

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

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

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

88 (E) Any misdemeanor or felony offense provided for in Article 1 of Chapter 8 of
89 Title 16;

90 (F) Any misdemeanor or felony offense provided for in Article 3 of Chapter 8 of
91 Title 16;

92 (G) Any misdemeanor or felony offense provided for in Article 5 of Chapter 8 of
93 Title 16;

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

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

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

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

98 (L) Fraudulent election interference in violation of Code Section 21-2-604.

99 (3) 'Utilized an artificial intelligence system' means to be the proximate cause of an
100 artificial intelligence system receiving an input or providing an output.

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

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

108 (2) If the designated offense for which the defendant was convicted is a felony, impose
109 a sentence of imprisonment for a period of not less than two years and a fine not less than
110 \$5,000.00; provided, however, that, if such designated offense is subject to a minimum
111 sentence of imprisonment for two years or more, the judge shall impose a sentence of
112 imprisonment for not less than such minimum sentence plus one year and a fine of not
113 less than \$5,000.00.

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

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

122 **SECTION 4.**

123 Titles 20 and 32 of the Official Code of Georgia Annotated, relating to education and
124 highways, bridges, and ferries, respectively, are amended by replacing "16-12-80"
125 with "16-12-80.1" wherever the former term appears in:

126 (1) Code Section 20-2-324, relating to internet acceptable-use policies required in all
127 public schools, minimum policy requirements, policy enforcement, technology protection
128 measures required, policy compliance review, approval, and enforcement by State Board
129 of Education, and waivers prohibited;

130 (2) Code Section 20-5-5, relating to internet safety policies in public libraries;

131 (3) Code Section 32-6-75, relating to restrictions on outdoor advertising authorized by
132 Code Sections 32-6-72 and 32-6-73 and multiple message signs on interstate system,
133 primary highways, and other highways; and

134 (4) Code Section 32-6-75.3, relating to permits for trimming or removal of trees or
135 vegetation in state right of way which obstruct view of outdoor advertising and removal
136 of signs with lapsed permits.

137 **SECTION 5.**

138 This Act shall become effective on July 1, 2025, and shall apply to all offenses committed
139 on or after such date.

140 **SECTION 6.**

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