

The Senate Committee on Judiciary offered the following substitute to HB 171:

MOOT

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 prohibit
4 distribution of computer generated obscene material to a child; to provide for a standard for
5 obscenity; to provide for a penalty and probation; to amend Titles 20 and 32 of the Official
6 Code of Georgia Annotated, relating to education and highways, bridges, and ferries,
7 respectively, so as to replace cross-references to Code Section 16-12-80 with Code Section
8 16-12-80.1; to provide for definitions; to provide for a short title; to provide for related
9 matters; to provide for an effective date and applicability; to repeal conflicting laws; and for
10 other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

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

15

SECTION 2.

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

19 "16-12-80.1.

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

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

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

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

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

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

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

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

34 (b) A person commits the offense of distribution of computer generated obscene material
35 depicting a child when such person knowingly distributes, solicits, or possesses with intent
36 to distribute a visual depiction of any kind, including an electronic image, electronic video,
37 drawing, sculpture, or painting, that:

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

41 (2) Is obscene; and

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

43 (c) A person who owns or operates a computer program or application that is designed
44 primarily for use by or marketed to children, is accessible to the public, and which utilizes
45 an artificial intelligence system to generate text responses to user's prompts shall be guilty
46 of the offense of distribution of computer generated obscene material to a child if such
47 person knows or reasonably should have known that such computer program or application
48 was reasonably likely to and in fact did provide a description of obscene conduct to a child.

49 (d)(1) Except as provided for in paragraph (2) of this subsection, a person who commits
50 an offense under this Code section shall be guilty of a felony and, upon conviction
51 thereof, shall be punished by imprisonment for not less than one year nor more than 15
52 years.

53 (2) A person who commits the offense of distribution of computer generated obscene
54 material depicting a child shall be guilty of a misdemeanor if:

55 (A) The defendant was 18 years of age or younger at the time of the offense;

56 (B) The child depicted would realistically appear to be at least 14 years of age to an
57 average observer; and

58 (C) In the court's discretion, and when the prosecuting attorney and the defendant have
59 agreed, if the defendant's violation of such offense involved the distribution of such
60 obscene material to another person but such distribution was not for the purpose of:

61 (i) Harassing, intimidating, or embarrassing any person; or

62 (ii) For any commercial purpose.

63 (e) It shall not be a required element of an offense under this Code section that the image
64 of a child in such depiction is of a currently or previously living individual.

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

69 (g) For purposes of this Code section, a person who, in the course of processing or
70 producing visual or printed matter either privately or commercially, has reasonable cause
71 to believe that the visual or printed matter submitted for processing or producing depicts
72 what appears to be a minor engaged in sexually explicit conduct shall immediately report
73 such incident, or cause a report to be made, to the National Center for Missing and
74 Exploited Children, in addition to the Georgia Bureau of Investigation or the law
75 enforcement agency for the county in which such matter is submitted. Any person
76 participating in the making of a report or causing a report to be made pursuant to this
77 subsection or participating in any judicial proceeding or any other proceeding resulting
78 therefrom shall in so doing be immune from any civil or criminal liability that might
79 otherwise be incurred or imposed, provided such participation pursuant to this subsection
80 is made in good faith.

81 (h) The provisions of subsection (b) of this Code section shall not apply to the activities
82 of law enforcement and prosecution agencies in the investigation and prosecution of
83 criminal offenses."

84

SECTION 3.

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

- 88 (1) Code Section 20-2-324, relating to internet acceptable-use policies required in all
89 public schools, minimum policy requirements, policy enforcement, technology protection
90 measures required, policy compliance review, approval, and enforcement by State Board
91 of Education, and waivers prohibited;
- 92 (2) Code Section 20-5-5, relating to internet safety policies in public libraries;

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

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

99

SECTION 4.

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

102

SECTION 5.

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