

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

A BILL TO BE ENTITLED
AN ACT

1 To Part 2 of Article 3 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated,
2 relating to offenses related to minors generally, so as to prohibit distribution of AI generated
3 material harmful to minors; to provide for a penalty and probation; to amend Article 1 of
4 Chapter 10 of Title 17 of the Official Code of Georgia Annotated, relating to procedure for
5 sentencing and imposition of punishment, so as to provide for sentencing of defendants who
6 utilize artificial intelligence in the commission of certain offenses; to provide for enhanced
7 sentencing and notices of intention to seek enhanced sentencing; to amend Code Section
8 42-1-12 of the Official Code of Georgia Annotated, relating to the state sexual offender
9 registry, so as to include the offense of distribution of computer generated obscene material
10 depicting a child in the category of criminal offenses against a victim who is a minor; to
11 provide for definitions; to provide for a short title; to provide for related matters; to provide
12 for an effective date; 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."

17

SECTION 2.

18 Part 2 of Article 3 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated,
19 relating to offenses related to minors generally, is amended by adding a new Code section
20 to read as follows:

21 "16-12-100.6.

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 17-10-23.

25 (2) 'Harmful to minors' shall have the same meaning as set forth in Code Section
26 16-12-100.1.

27 (3) 'Minor' means any individual under the age of 18 years.

28 (4) 'Visual depiction' shall have the same meaning as set forth in Code Section
29 16-12-100.2.

30 (b) A person commits the offense of distribution of AI generated material harmful to
31 minors when he or she knowingly creates, distributes, solicits, or possesses with intent to
32 distribute a visual depiction of any kind that is harmful to a minor, including an electronic
33 image, electronic video, drawing, sculpture, or painting, that was generated using an
34 artificial intelligence system.

35 (c) A person who commits the offense of distribution of AI generated material harmful to
36 minors shall be guilty of a felony and, upon conviction thereof, shall be punished by
37 imprisonment for not less than one year nor more than 15 years.

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

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

- 44 (f) The provisions of subsection (b) of this Code section shall not apply to:
- 45 (1) The activities of law enforcement and prosecution agencies in the investigation and
- 46 prosecution of criminal offenses;
- 47 (2) Legitimate medical, scientific, or educational activities; or
- 48 (3) Any person who creates or possesses a visual depiction showing only himself or
- 49 herself engaged in sexually explicit conduct.
- 50 (g) Any person who violates subsection (b) of this Code section shall be guilty of a
- 51 misdemeanor if:
- 52 (1) The minor depicted was at least 14 years of age at the time the visual depiction was
- 53 created;
- 54 (2) The visual depiction was created with the permission of the minor depicted; and
- 55 (3) The defendant was 18 years of age or younger at the time of the offense and
- 56 (A) The defendant's violation of subsection (b) of this Code section did not involve the
- 57 distribution of such visual depiction to another person; or
- 58 (B) In the court's discretion, and when the prosecuting attorney and the defendant have
- 59 agreed, if the defendant's violation of subsection (b) of this Code section involved the
- 60 distribution of such visual depiction to another person but such distribution was not for
- 61 the purpose of:
- 62 (i) Harassing, intimidating, or embarrassing the minor depicted; or
- 63 (ii) For any commercial purpose.
- 64 (h) A person is subject to prosecution in this state pursuant to Code Section 17-2-1,
- 65 relating to jurisdiction over crimes and persons charged with commission of crimes
- 66 generally, for any conduct made unlawful by this Code section which the person engages
- 67 in while:
- 68 (1) Either within or outside of this state if, by such conduct, the person commits a
- 69 violation of this Code section which involves a minor who resides in this state or another
- 70 person believed by such person to be a minor residing in this state; or

71 (2) Within this state if, by such conduct, the person commits a violation of this Code
72 section which involves a minor who resides within or outside this state or another person
73 believed by such person to be a minor residing within or outside this state.
74 (i) Any violation of this Code section shall constitute a separate offense."

75 **SECTION 3.**

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

79 "17-10-23.

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

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

88 (2) 'Designated offense' means:

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

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

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

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

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

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

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

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

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

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

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

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

105 (3) 'Used an artificial intelligence system' means to be the proximate cause of an artificial
106 intelligence system receiving an input or providing an output.

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

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

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

120 (c) At any time after the filing of an indictment or accusation, but not later than the
121 arraignment, the state shall notify the defendant of its intention to seek the enhanced
122 penalty or penalties authorized by subsection (b) of this Code section. Such notice shall

123 be in writing and shall allege the specific factor or factors authorizing an enhanced
 124 sentence in the case pursuant to this Code section.

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

128 **SECTION 4.**

129 Code Section 42-1-12 of the Official Code of Georgia Annotated, relating to the state sexual
 130 offender registry, is amended by revising paragraph (9) of subsection (a) as follows:

131 "(9)(A) 'Criminal offense against a victim who is a minor' with respect to convictions
 132 occurring on or before June 30, 2001, means any criminal offense under Title 16 or any
 133 offense under federal law or the laws of another state or territory of the United States
 134 which consists of:

- 135 (i) Kidnapping of a minor, except by a parent;
- 136 (ii) False imprisonment of a minor, except by a parent;
- 137 (iii) Criminal sexual conduct toward a minor;
- 138 (iv) Solicitation of a minor to engage in sexual conduct;
- 139 (v) Use of a minor in a sexual performance;
- 140 (vi) Solicitation of a minor to practice prostitution; or
- 141 (vii) Any conviction resulting from an underlying sexual offense against a victim
 142 who is a minor.

143 (B) 'Criminal offense against a victim who is a minor' with respect to convictions
 144 occurring ~~after~~ between June 30, 2001, and June 30, 2026, means any criminal offense
 145 under Title 16 or any offense under federal law or the laws of another state or territory
 146 of the United States which consists of:

- 147 (i) Kidnapping of a minor, except by a parent;
- 148 (ii) False imprisonment of a minor, except by a parent;

- 149 (iii) Criminal sexual conduct toward a minor;
- 150 (iv) Solicitation of a minor to engage in sexual conduct;
- 151 (v) Use of a minor in a sexual performance;
- 152 (vi) Solicitation of a minor to practice prostitution;
- 153 (vii) Use of a minor to engage in any sexually explicit conduct to produce any visual
- 154 medium depicting such conduct;
- 155 (viii) Creating, publishing, selling, distributing, or possessing any material depicting
- 156 a minor or a portion of a minor's body engaged in sexually explicit conduct;
- 157 (ix) Transmitting, making, selling, buying, or disseminating by means of a computer
- 158 any descriptive or identifying information regarding a ~~child~~ minor for the purpose of
- 159 offering or soliciting sexual conduct of or with a ~~child~~ minor or the visual depicting
- 160 of such conduct;
- 161 (x) Conspiracy to transport, ship, receive, or distribute visual depictions of minors
- 162 engaged in sexually explicit conduct; or
- 163 (xi) Any conduct which, by its nature, is a sexual offense against a victim who is a
- 164 minor.
- 165 (C) 'Criminal offense against a victim who is a minor' with respect to convictions
- 166 occurring after June 30, 2026, means any criminal offense under Title 16 or any offense
- 167 under federal law or the laws of another state or territory of the United States which
- 168 consists of:
- 169 (i) Kidnapping of a minor, except by a parent;
- 170 (ii) False imprisonment of a minor, except by a parent;
- 171 (iii) Criminal sexual conduct toward a minor;
- 172 (iv) Solicitation of a minor to engage in sexual conduct;
- 173 (v) Use of a minor in a sexual performance;
- 174 (vi) Solicitation of a minor to practice prostitution;

- 175 (vii) Use of a minor to engage in any sexually explicit conduct to produce any visual
176 medium depicting such conduct;
- 177 (viii) Creating, publishing, selling, distributing, or possessing any material depicting
178 a minor or a portion of a minor's body engaged in sexually explicit conduct;
- 179 (ix) Transmitting, making, selling, buying, or disseminating by means of a computer
180 any descriptive or identifying information regarding a minor for the purpose of
181 offering or soliciting sexual conduct of or with a minor or the visual depicting of such
182 conduct;
- 183 (x) Conspiracy to transport, ship, receive, or distribute visual depictions of minors
184 engaged in sexually explicit conduct;
- 185 (xi) Distribution of computer generated obscene material depicting a minor in
186 violation of Code Section 16-12-80; or
- 187 (xii) Any conduct which, by its nature, is a sexual offense against a victim who is a
188 minor.
- 189 ~~(C)~~(D) For purposes of this paragraph, a conviction for a misdemeanor shall not be
190 considered a criminal offense against a victim who is a minor, and conduct which is
191 adjudicated in juvenile court shall not be considered a criminal offense against a victim
192 who is a minor."

193 **SECTION 5.**

194 This Act shall become effective on July 1, 2026.

195 **SECTION 6.**

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