

The House Committee on Judiciary, Non-Civil offers the following substitute to SB 61:

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 4 of Article 6 of Chapter 9 of Title 16 of the Official Code of Georgia
2 Annotated, relating to internet and e-mail fraud, so as to establish the criminal offense of
3 certain forms of digital fraud on social media platforms; to provide for criminal penalties; to
4 require social media platform operators to evaluate claims such fraud; to provide for civil
5 penalties; to provide for enforcement; to provide for a cause of action and damages; to
6 provide for definitions; to amend Code Section 9-10-91 of the Official Code of Georgia
7 Annotated, relating to grounds for exercising personal jurisdiction over nonresident, so as to
8 include the operation of an online platform in this state within transacting business within
9 this state for purposes of personal jurisdiction; to provide for related matters; to provide for
10 an effective date; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Part 4 of Article 6 of Chapter 9 of Title 16 of the Official Code of Georgia Annotated,
14 relating to internet and e-mail fraud, is amended by adding a new Code section to read as
15 follows:

S. B. 61 (SUB)

16 "16-9-109.2.

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

18 (1) 'Operator' means any person or entity that runs or operates a social media platform.

19 (2) 'Social media platform' means an internet website, service, application, or product

20 that:

21 (A) Is open to the public;

22 (B) Allows or enables users to create accounts or communicate or interact with other
23 users; and

24 (C) Permits users to create or post content or information, including, but not limited
25 to, images, videos, video games, or such other content that is viewable or able to be
26 engaged with by other users.

27 (b) A person commits the offense of digital identity fraud when, using a social media
28 platform, such person knowingly and without authorization:

29 (1) Uses the identity of an individual who is a resident of this state without such
30 individual's consent, including such individual's name, image, identifying information,
31 or social media platform profile information to mimic such individual, with the intent to
32 deceive others, cause harm, or commit fraud; or

33 (2) Creates a social media platform profile that mimics an individual who is a resident
34 of this state without such individual's consent, through use of such individual's name,
35 image, identifying information, or social media platform profile information, with the
36 intent to use such social media platform profile, or to make it available for use by others,
37 to deceive others, cause harm, or commit fraud.

38 (c) A person commits the offense of digital marketing fraud when, using a social media
39 platform, such person knowingly and willfully collects payment upfront for services or
40 goods never given and refuses to provide a refund within a reasonable period of time of a
41 disputed charge.

42 (d) A person commits the offense of criminal digital design when, using a social media
43 platform, such person knowingly and willfully creates interactive content that encourages,
44 causes, abets, connives, solicits, engages, or aids another in committing any felony which
45 encompasses force or violence as an element of the offense which would constitute a
46 felony which encompasses force or violence as an element of the offense.

47 (e) A person who commits an offense provided in subsection (b), (c), or (d) of this Code
48 section shall be guilty of a felony and, upon conviction thereof, shall be punished by
49 imprisonment for not less than one year nor more than 20 years, a fine of not less than
50 \$1,000.00 nor more than \$500,000.00, or both.

51 (f) Any violation of subsection (b), (c), or (d) of this Code section shall constitute a tort and
52 shall create a right of action in any person aggrieved by such violation, including, but not
53 limited to, any person whose identity was used or mimicked, for which damages may be
54 recovered. Special damages may be inferred by the violation. The remedies provided in
55 this Code section are in addition to any other procedures or remedies available at law or
56 equity. Reasonable attorney's fees shall be awarded to the plaintiff where the plaintiff has
57 prevailed in the underlying action.

58 (g) It is the intent of the General Assembly that this Code section shall not be construed
59 or applied to:

60 (1) Diminish or infringe upon any right of petition or free speech under the Constitution
61 of the United States or the Constitution of the State of Georgia; or

62 (2) Prosecute or impose liability upon any operator on the basis that such operator is the
63 publisher or speaker of content that is alleged to constitute digital identity fraud, digital
64 marketing fraud, criminal digital design or in any manner that is inconsistent with Section
65 230 of Chapter 5 of Title 47 of the United States Code."

66 **SECTION 2.**

67 Code Section 9-10-91 of the Official Code of Georgia Annotated, relating to grounds for
68 exercising personal jurisdiction over nonresident, is amended by revising paragraph (1) as
69 follows:

70 "(1) Transacts any business within this state, including, but not limited to, operation of
71 an online platform with access in this state;"

72 **SECTION 3.**

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

74 **SECTION 4.**

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