

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

Senate Bill 741

By Senators Grady, Weld, Trump, Chapman, Woelfel,

Deeds, Smith, Plymale, Karnes, and Stuart

[Introduced February 9, 2024; referred

to the Committee on the Judiciary]

1 A BILL to amend and reenact the Code of West Virginia, 1931, as amended, by adding thereto a
2 new section designated §61-8C-12, relating to creating the criminal offenses of creating,
3 producing, distributing, receiving, or possessing with intent to distribute visual depictions,
4 artificial intelligence created child pornography when no actual minor is depicted; setting
5 forth findings; defining terms; clarifying that the visual depiction of a minor need not be of
6 an actual person; and establishing penalties.

Be it enacted by the Legislature of West Virginia:

ARTICLE 8B. FILMING OF SEXUALLY EXPLICIT CONDUCT OF MINORS.

§61-8C-12. Prohibiting the creation production, distribution receipt, or possession with intent to distribute visual depictions of child pornography using artificial intelligence; making findings; defining terms; establishing penalties.

1 (a) The Legislature hereby finds that the use of artificial intelligence products to create
2 lifelike, seemingly real media representations of children engaging in sexually explicit conduct as a
3 means of avoiding existing sanctions for the making of child pornography using actual children is a
4 growing problem in the United States which, if it has not done so already, poses a serious threat to
5 West Virginia children. The Legislature further finds that using artificial means of production of
6 child pornography not using actual minors promotes illegal sexual conduct against children.

7 Lastly, the Legislature finds that criminalizing the production and creation of artificial
8 intelligence generated child pornography is the most effective means of protecting West Virginia
9 children.

10 (b)(1) As used in subsection (c) of this section "minor" means a visual depiction
11 represented to be a person under the age of 18 or which when viewed by a reasonable prudent
12 person would appear to be or represent a person under the age of 18.

13 (2) As used in this section "obscene" has the same meaning as that set forth in the
14 provisions of §61-8A-1 of this code.

15 (3) As used in this section "visual depiction" means:

16 (A) Any developed or undeveloped photographs, pictures, from a video clip: or

17 (B) Any digital or computer-generated image, picture, film, or video made by any means
18 including those transmitted by any means including but not limited to streaming media, even if not
19 stored in a permanent format.

20 (c) Any person who knowingly and intentionally creates, produces, distributes, or
21 possesses with intent to distribute a visual depiction of any kind whatsoever showing a minor
22 engaging in sexually explicit conduct which is obscene is guilty of a felony and, upon conviction
23 shall be fined not less than \$20,000 or imprisoned in a state correctional facility for not less than
24 two nor more than 10 years, or both fined and imprisoned.

25 (d) It is not an element of the offense set forth in this section that the minor depicted
26 actually exists.

NOTE: The purpose of this bill is to create the criminal offenses of creating, producing, distributing, receiving, or possessing with intent to distribute visual depictions artificial intelligence created child pornography when no actual minor is depicted.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.