WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

Senate Bill 198

By Senator Grady

[Introduced February 12, 2025; referred

to the Committee on the Judiciary]

1   A BILL to amend and reenact the Code of West Virginia, 1931, as amended, by adding a new

2   section, designated §61-8C-12, relating to establishing the criminal offenses of creating,

3   producing, distributing, or possessing with intent to distribute artificial intelligence-created

4   visual depictions of child pornography when no actual minor is depicted; setting forth

5   findings; defining terms; clarifying that the visual depiction of a minor need not be of an

6   actual person; and establishing criminal penalties.

Be it enacted by the Legislature of West Virginia:

ARTICLE 8C. 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. Lastly,

7   the Legislature finds that criminalizing the production and creation of artificial intelligence

8   generated child pornography is the most effective means of protecting West Virginia children.

9   (b) (1) As used in subsection (c) of this section, "artificial intelligence-created visual

10   depiction" means:

11   (A) Any developed or undeveloped photographs, pictures or video clip: or

12   (B) Any digital or computer-generated image, picture, film, or video made by any means,

13   including those transmitted by any means including, but not limited to, streaming media, even if not

14   stored in a permanent format.

15   (2) As used in subsection (c) of this section, "minor" means a visual depiction represented

16   to be a person under the age of 18 or which when viewed by a reasonable prudent person would

17   appear to be or is represented to be a person under the age of 18.

18   (3) As used in subsection (c) of this section, "obscene" has the same meaning as that set

19   forth in the provisions of §61-8A-1.

20   (c) Any person who knowingly and intentionally creates, produces, distributes, or

21   possesses with intent to distribute an artificial intelligence-created visual depiction of any kind

22   whatsoever showing a minor engaging in sexually explicit conduct which is obscene is guilty of a

23   felony and, upon conviction thereof, shall be fined not more than $20,000 or imprisoned in a state

24   correctional facility for not less than one 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 exist.

NOTE: The purpose of this bill is to establish the criminal offenses of creating, producing, distributing, or possessing with intent to distribute artificial intelligence-created visual depictions of child pornography when no actual minor is depicted; to set forth findings; to define terms; to clarify that the visual depiction of a minor need not be of an actual person; and to establish criminal penalties.

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