

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Committee Substitute

for

Senate Bill 741

BY SENATORS GRADY, WELD, TRUMP, CHAPMAN,
WOELFEL, DEEDS, SMITH, PLYMALE, KARNES, STUART,
AND HUNT

[Originating in the Committee on the Judiciary;
reported February 15, 2024]

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 establishing the criminal offenses of
3 creating, producing, distributing, or possessing with intent to distribute artificial
4 intelligence-created visual depictions of child pornography when no actual minor is
5 depicted; setting forth findings; defining terms; clarifying that the visual depiction of a minor
6 need not be of an actual person; and establishing criminal 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
3 a means of avoiding existing sanctions for the making of child pornography using actual children
4 is a growing problem in the United States which, if it has not done so already, poses a serious
5 threat to West Virginia children. The Legislature further finds that using artificial means of
6 production of child pornography not using actual minors promotes illegal sexual conduct against
7 children. 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, "artificial intelligence-created visual
11 depiction" means:

12 (A) Any developed or undeveloped photographs, pictures or video clip; or

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

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17 (2) As used in subsection (c) of this section, "minor" means a visual depiction represented
18 to be a person under the age of 18 or which when viewed by a reasonable prudent person would
19 appear to be or is represented to be a person under the age of 18.

20 (3) As used in subsection (c) of this section, "obscene" has the same meaning as that set
21 forth in the provisions of §61-8A-1 of this code.

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

27 (d) It is not an element of the offense set forth in this section that the minor depicted
28 actually exist.