

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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SENATE BILL 828

Short Title: Child Protection & Deepfake Prohibition Act. (Public)

Sponsors: Senators Smith and Batch (Primary Sponsors).

Referred to: Rules and Operations of the Senate

May 6, 2024

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT THE CREATION, POSSESSION, AND DISSEMINATION OF VISUAL REPRESENTATIONS CREATED, ADAPTED, OR MODIFIED BY ANY MEANS TO GIVE THE APPEARANCE THAT A MINOR IS ENGAGED IN SEXUAL ACTIVITY AND TO APPROPRIATE FUNDS TO THE DEPARTMENT OF PUBLIC SAFETY FOR COSTS ASSOCIATED WITH ASSISTING LAW ENFORCEMENT AGENCIES IN ENFORCING THE LAWS AS AMENDED BY THIS ACT.

The General Assembly of North Carolina enacts:

SECTION 1. This act shall be known and may be cited as the "Child Protection and Deepfake Prohibition Act."

SECTION 2. G.S. 14-190.16 reads as rewritten:

"§ 14-190.16. First degree sexual exploitation of a minor.

(a) Offense. – A person commits the offense of first degree sexual exploitation of a minor if, knowing the character or content of the material or performance, ~~he~~the person does any of the following:

- (1) Uses, employs, induces, coerces, encourages, or facilitates a minor to engage in or assist others to engage in sexual activity for a live performance or for the purpose of producing material that contains a visual representation depicting ~~this activity; or~~activity.
- (2) Permits a minor under ~~his~~the person's custody or control to engage in sexual activity for a live performance or for the purpose of producing material that contains a visual representation depicting ~~this activity; or~~activity.
- (3) Transports or finances the transportation of a minor through or across this State with the intent that the minor engage in sexual activity for a live performance or for the purpose of producing material that contains a visual representation depicting ~~this activity; or~~activity.
- (4) Records, photographs, films, develops, or duplicates for sale or pecuniary gain material that contains a visual representation depicting a minor engaged in sexual activity. For purposes of this subdivision, the term "visual representation depicting a minor engaged in sexual activity" includes a visual representation created, adapted, or modified by any means to give the appearance that a minor is engaged in sexual activity.

(b) Inference. – In a prosecution under this section, the trier of fact may infer that a participant in sexual activity whom material through its title, text, visual representations, or otherwise represents or depicts as a minor is a minor.

(c) Mistake of Age. – Mistake of age is not a defense to a prosecution under this section.



1 (d) Punishment and Sentencing. – Violation of this section is a Class C felony."

2 **SECTION 3.** G.S. 14-190.17 reads as rewritten:

3 **"§ 14-190.17. Second degree sexual exploitation of a minor.**

4 (a) Offense. – A person commits the offense of second degree sexual exploitation of a
5 minor if, knowing the character or content of the material, ~~he~~the person does either of the
6 following:

7 (1) Records, photographs, films, develops, or duplicates material that contains a
8 visual representation of a minor engaged in sexual ~~activity~~activity.

9 (2) Distributes, transports, exhibits, receives, sells, purchases, exchanges, or
10 solicits material that contains a visual representation of a minor engaged in
11 sexual activity.

12 (b) Inference. – In a prosecution under this section, the trier of fact may infer that a
13 participant in sexual activity whom material through its title, text, visual representations or
14 otherwise represents or depicts as a minor is a minor.

15 (c) Mistake of Age. – Mistake of age is not a defense to a prosecution under this section.

16 (c1) Application. – This section does not apply to a minor who records, photographs, films,
17 or develops a visual representation of the minor in the nude and does not distribute, exhibit, sell,
18 or exchange the visual representation.

19 (d) Punishment and Sentencing. – Violation of this section is a Class E felony.

20 (e) Definition. – For purposes of this section, the term "visual representation of a minor
21 engaged in sexual activity" includes a visual representation created, adapted, or modified by any
22 means to give the appearance that a minor is engaged in sexual activity."

23 **SECTION 4.** G.S. 14-190.17A reads as rewritten:

24 **"§ 14-190.17A. Third degree sexual exploitation of a minor.**

25 (a) Offense. – A person commits the offense of third degree sexual exploitation of a
26 minor if, knowing the character or content of the material, ~~he~~the person possesses material that
27 contains a visual representation of a minor engaging in sexual activity.

28 (b) Inference. – In a prosecution under this section, the trier of fact may infer that a
29 participant in sexual activity whom material through its title, text, visual representations or
30 otherwise represents or depicts as a minor is a minor.

31 (c) Mistake of Age. – Mistake of age is not a defense to a prosecution under this section.

32 (c1) Application. – This section does not apply to a minor who possesses a visual
33 representation of the minor in the nude.

34 (d) Punishment and Sentencing. – Violation of this section is a Class H felony.

35 (e) Definition. – For purposes of this section, the term "visual representation of a minor
36 engaged in sexual activity" includes a visual representation created, adapted, or modified by any
37 means to give the appearance that a minor is engaged in sexual activity."

38 **SECTION 5.** There is appropriated from the General Fund to the Department of
39 Public Safety the sum of one million dollars (\$1,000,000) in nonrecurring funds for the
40 2024-2025 fiscal year to be used to assist law enforcement agencies with enforcing the provisions
41 set forth in G.S. 14-190.16, 14-190.17, and 14-190.17A, as amended by this act.

42 **SECTION 6.** Sections 2, 3, and 4 of this act become effective December 1, 2024,
43 and apply to offenses committed on or after that date. The remainder of this act becomes effective
44 July 1, 2024.