

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

FILED SENATE
May 2, 2024
S.B. 828
PRINCIPAL CLERK

S

D

SENATE BILL DRS55064-MLa-136B

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

Sponsors: Senators Smith and Batch (Primary Sponsors).

Referred to:

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

8 The General Assembly of North Carolina enacts:

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

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

12 "§ 14-190.16. First degree sexual exploitation of a minor.

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

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

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

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



* D R S 5 5 0 6 4 - M L A - 1 3 6 B *

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.