THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No.   1213   Session of 2024

INTRODUCED BY PENNYCUICK, DILLON, BOSCOLA, KANE, TARTAGLIONE, BREWSTER, LANGERHOLC, PHILLIPS-HILL, HAYWOOD, BROWN, SCHWANK, SANTARSIERO, VOGEL, ROBINSON, MILLER AND BARTOLOTTA, MAY 29, 2024

SENATOR BAKER, JUDICIARY, AS AMENDED, JUNE 4, 2024

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2   Consolidated Statutes, in sexual offenses, further providing
3   for the offense of unlawful dissemination of intimate image;
4   and, in minors, further providing for the offense of sexual
5   abuse of children and for the offense of transmission of
6   sexually explicit images by minor.

7   The General Assembly of the Commonwealth of Pennsylvania

8 hereby enacts as follows:

9   Section 1. Section 3131(a) and (c) of Title 18 of the

10 Pennsylvania Consolidated Statutes are amended and subsection

11 (g) is amended by adding definitions to read:

12 § 3131. Unlawful dissemination of intimate image.

13   (a) Offense defined.--Except as provided in sections 5903

14 (relating to obscene and other sexual materials and

15 performances), 6312 (relating to sexual abuse of children) and

16 6321 (relating to transmission of sexually explicit images by

17 minor), a person commits the offense of unlawful dissemination

18 of intimate image if, with intent to harass, annoy or alarm **[a**   **<--**

19 current or former sexual or intimate partner]** ANOTHER, the   **<--**

1 person disseminates [a visual depiction of the current or former

2 sexual or intimate partner in a state of nudity or engaged in

3 sexual conduct.]:

4   (1) A visual depiction of the current or former sexual

5 or intimate partner in a state of nudity or engaged in sexual

6 conduct.

7   (2) An artificially generated SEXUAL depiction of an   <--

8 individual, with intent to harass, annoy or alarm an   <--

9 individual.

10 * * *

11 (c) Grading.--[An offense under subsection (a) shall be:]

12   (1) An offense under subsection (a)(1) shall be:

13   [(1)] (i) A misdemeanor of the first degree, when the

14 person depicted is a minor.

15   [(2)] (ii) A misdemeanor of the second degree, when the

16 person depicted is not a minor.

17   (2) An offense under subsection (a)(2) shall be:

18   (i) A felony of the third MISDEMEANOR OF THE FIRST_ <--

19   degree, when the person depicted is a minor.

20   (ii) A misdemeanor of the first SECOND degree, when <--

21   the person depicted is not a minor.

22 * * *

23 (g) Definitions.--As used in this section, the following

24 words and phrases shall have the meanings given to them in this

25 subsection unless the context clearly indicates otherwise:

26 "Artificial intelligence." Any of the following: <--

27   (1) An artificial system that performs tasks under

28 varying and unpredictable circumstances without significant

29 human oversight or that can learn from experience and improve

30 performance when exposed to data sets.

1   (2) An artificial system developed in computer software,

2   physical hardware or other context that solves tasks

3   requiring human-like perception, cognition, planning,

4   learning, communication or physical action.

5   (3) An artificial system designed to think or act like a

6   human, including cognitive architectures and neural networks.

7   (4) A set of techniques, including machine learning,

8   that is designed to approximate a cognitive task.

9   (5) An artificial system designed to act rationally,

10   including an intelligent software agent or embodied robot

11   that achieves goals using perception, planning, reasoning,

12   learning, communicating, decision making and acting.

13   "ARTIFICIAL INTELLIGENCE."   <--

14   (1) A MACHINE-BASED SYSTEM THAT CAN, FOR A GIVEN SET OF

15   HUMAN-DEFINED OBJECTIVES, MAKE PREDICTIONS, RECOMMENDATIONS

16   OR DECISIONS INFLUENCING REAL OR VIRTUAL ENVIRONMENTS,

17   INCLUDING THE ABILITY TO:

18   (I) PERCEIVE REAL AND VIRTUAL ENVIRONMENTS;

19   (II) ABSTRACT PERCEPTIONS MADE UNDER PARAGRAPH (1)

20   INTO MODELS THROUGH ANALYSIS IN AN AUTOMATED MANNER; AND

21   (III) USE MODEL INFERENCE TO FORMULATE OPTIONS FOR

22   INFORMATION OR ACTION BASED ON OUTCOMES UNDER

23   SUBPARAGRAPHS (I) AND (II).

24   (2) THE TERM INCLUDES GENERATIVE ARTIFICIAL

25   INTELLIGENCE.

26   "Artificially generated SEXUAL depiction." A visual   <--

27   depiction:

28   (1) that appears to authentically depict an individual

29   in a state of nudity or engaged in sexual conduct that did

30   not occur in reality; and

1   (2) the production of which was substantially dependent

2   upon technical means, including artificial intelligence and   <--

3   OR photo editing software, rather than the ability of another   <--

4   person to physically impersonate the other person.

5   "GENERATIVE ARTIFICIAL INTELLIGENCE." THE CLASS OF MODELS   <--

6   THAT EMULATE THE STRUCTURE AND CHARACTERISTICS OF INPUT DATA IN

7   ORDER TO GENERATE DERIVED SYNTHETIC CONTENT, INCLUDING

8   INFORMATION SUCH AS IMAGES, VIDEOS, AUDIO CLIPS OR TEXT, THAT

9   HAS BEEN SIGNIFICANTLY MODIFIED OR GENERATED BY ALGORITHMS,

10 INCLUDING BY ARTIFICIAL INTELLIGENCE.

11   * * *

12   "Photo editing software." A software used primarily for

13 editing photographs, videos or computer depictions that contains

14 a variety of filters, effects or tools that can be used to

15 manipulate photographs, videos or computer depictions.

16   * * *

17   Section 2. Section 6312(c), (d), (f)(3) and (g) of Title 18

18 are amended to read:

19 § 6312. Sexual abuse of children.

20   * * *

21   (c) Dissemination of photographs, videotapes, computer

22 depictions and films.--Any person who knowingly sells,

23 distributes, delivers, disseminates, transfers, displays or

24 exhibits to others, or who possesses for the purpose of sale,

25 distribution, delivery, dissemination, transfer, display or

26 exhibition to others, any artificially generated depiction or   <--

27 [book, magazine, pamphlet, slide, photograph, film, videotape,   <--

28 computer depiction or other material depicting a child under the

29 age of 18 years engaging in a prohibited sexual act or in the

30 simulation of such act] CHILD SEXUAL ABUSE MATERIAL OR   <--

ARTIFICIALLY GENERATED CHILD SEXUAL ABUSE MATERIAL commits an

offense.

(d) Child **[pornography]** SEXUAL ABUSE MATERIAL.--Any person   <--

who intentionally views or knowingly possesses or controls any

~~artificially generated depiction or~~ **[**book, magazine, pamphlet,   <--

slide, photograph, film, videotape, computer depiction or other

material depicting a child under the age of 18 years engaging in

a prohibited sexual act or in the simulation of such act**]** CHILD   <--

SEXUAL ABUSE MATERIAL OR ARTIFICIALLY GENERATED CHILD SEXUAL

ABUSE MATERIAL commits an offense.

* * *

(f) Exceptions.--This section does not apply to any of the

following:

       * * *

       (3) An individual under 18 years of age who knowingly

   views, photographs, videotapes, depicts on a computer or

   films or possesses or intentionally views a visual depiction

   OR AN ARTIFICIALLY GENERATED DEPICTION as defined in section   <--

   6321 ~~or an artificially generated depiction~~ of himself alone   <--

   in a state of nudity as defined in section 6321.

* * *

(g) Definitions.--As used in this section, the following

words and phrases shall have the meanings given to them in this

subsection:

"Artificial intelligence." As defined in section 3131

(relating to unlawful dissemination of intimate image).

"Artificially generated ~~depiction~~ CHILD SEXUAL ABUSE   <--

MATERIAL." A book, magazine, pamphlet, slide, photograph,

videotape, film ~~or,~~ computer depiction OR OTHER MATERIAL: <--

       (1) that appears to authentically depict a child under

1   18 years of age engaging in a prohibited sexual act or in the

2   simulation of such act that did not occur in reality; and

3   (2) the production of which was substantially dependent

4   upon technical means, including artificial intelligence ~~and~~   **<--**

5   OR photo editing software, rather than the ability of another   **<--**

6   person to physically impersonate the child.

7   "CHILD SEXUAL ABUSE MATERIAL." A BOOK, MAGAZINE, PAMPHLET,   **<--**

8   SLIDE, PHOTOGRAPH, FILM, VIDEOTAPE, COMPUTER DEPICTION OR OTHER

9   MATERIAL DEPICTING A CHILD UNDER 18 YEARS OF AGE ENGAGING IN A

10   PROHIBITED SEXUAL ACT OR IN THE SIMULATION OF A PROHIBITED

11   SEXUAL ACT.

12   "Intentionally views." The deliberate, purposeful, voluntary

13   viewing of material containing an artificially generated

14   depiction or depicting a child under 18 years of age engaging in

15   a prohibited sexual act or in the simulation of such act. The

16   term shall not include the accidental or inadvertent viewing of

17   such material.

18   "Photo editing software." As defined in section 3131.

19   "Prohibited sexual act." Sexual intercourse as defined in

20   section 3101 (relating to definitions), masturbation, sadism,

21   masochism, bestiality, fellatio, cunnilingus, lewd exhibition of

22   the genitals or nudity if such nudity is depicted for the

23   purpose of sexual stimulation or gratification of any person who

24   might view such depiction.

25   Section 3. The definition of "sexually explicit image" in

26   section 6321(g) of Title 18 is amended and the subsection is

27   amended by adding definitions to read:

28   § 6321. Transmission of sexually explicit images by minor.

29   * * *

30   (g) Definitions.--As used in this section, the following

1   words and phrases shall have the meanings given to them in this

2   subsection unless the context clearly indicates otherwise:

3   "Artificial intelligence." As defined in section 3131

4   (relating to unlawful dissemination of intimate image).

5   "Artificially generated depiction." Any visual depiction:

6   (1) that appears to authentically depict a child under

7   18 years of age engaged in conduct or an action or state of

8   nudity that did not occur in reality; and

9   (2) the production of which was substantially dependent

10   upon technical means, including artificial intelligence and

11   photo editing software, rather than the ability of another

12   person to physically impersonate the child.

13   * * *

14   "Photo editing software." As defined in section 3131.

15   * * *

16   "Sexually explicit image." A lewd or lascivious visual

17 depiction or artificially generated depiction of a minor's

18 genitals, pubic area, breast or buttocks or nudity, if such

19 nudity is depicted for the purpose of sexual stimulation or

20 gratification of any person who might view such nudity.

21   * * *

22   Section 4. This act shall take effect in 60 days.