

The Senate Committee on Judiciary offered the following substitute to HB 1361:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 16 of the Official Code of Georgia Annotated, relating to crimes and  
2 offenses, so as to prohibit distribution of computer generated obscene material depicting a  
3 child; to provide for the offenses of doxing and aggravated doxing; to provide for penalties;  
4 to provide for construction; to provide for definitions; to provide for related matters; to  
5 provide for an effective date and applicability; to repeal conflicting laws; and for other  
6 purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is  
10 amended by repealing Code Section 16-12-80, relating to distributing obscene material,  
11 obscene material defined, and penalty, and enacting a new Code Section 16-12-80 to read as  
12 follows:

13 "16-12-80.

14 (a) As used in this Code section, the term:

15 (1) 'Artificial intelligence system' means an engineered or machine based system that  
16 emulates the capability of a person to receive audio, visual, text, or any other form of

17 information and uses the information received to emulate a human cognitive process,  
18 including, but not limited to, learning, generalizing, reasoning, planning, predicting,  
19 acting, or communicating; provided, however, that artificial intelligence systems may  
20 vary in the forms of information they can receive and in the human cognitive processes  
21 they can emulate.

22 (2) 'Child' means any person under the age of 16 years.

23 (3) 'Sexually explicit conduct' shall have the same meaning as provided in Code  
24 Section 16-12-100.

25 (b) Any person commits the crime of distribution of computer generated obscene material  
26 depicting a child when he or she knowingly creates, distributes, solicits, or possesses with  
27 intent to distribute a visual depiction of any kind, including an electronic image, electronic  
28 video, drawing, sculpture, or painting, that:

29 (1) Depicts an image that appears to be of a child, and that would appear realistic to an  
30 average observer, engaging in sexually explicit conduct, whether between persons of the  
31 same or opposite sex;

32 (2) Is obscene; and

33 (3) Was created through the use of an artificial intelligence system.

34 (c) A person who commits the crime proscribed in subsection (b) of this Code section shall  
35 be guilty of a felony and punished by imprisonment for not less than one year nor more  
36 than 15 years.

37 (d) It is not a required element of an offense under this Code section that the child depicted  
38 actually exists.

39 (e) Material is obscene if:

40 (1) To an average person, applying contemporary community standards, taken as a  
41 whole, it predominantly appeals to the prurient interest, that is, a shameful or morbid  
42 interest in nudity, sex, or excretion;

43 (2) The material taken as a whole lacks serious literary, artistic, political, or scientific  
44 value; and

45 (3) The material depicts or describes, in a patently offensive way, sexual conduct.

46 (f) If the court orders a sentence to be probated in whole or in part, as a condition the court  
47 may impose any or all of the requirements set forth in subsection (b) of Code  
48 Section 42-8-35."

49

## SECTION 2.

50 Said title is further amended in Article 3 of Chapter 11, relating to invasion of privacy, by  
51 adding a new Code to read as follows:

52 "16-11-93.

53 (a) As used in this Code section, the term:

54 (1) 'Close relation' means a person's current or former spouse, parent, child, sibling,  
55 stepchild, stepparent, grandparent, coworker, an individual in a dating relationship with  
56 such person as defined in Code Section 19-13A-1, or any individual who regularly resides  
57 or, within the prior six months, regularly resided, in the same household as such person.

58 (2) 'Mental anguish' means emotional distress or suffering as evidenced by a reasonably  
59 held anxiety, fear, torment, or apprehension of physical harm resulting from the posting  
60 or publication of a person's personally identifiable information.

61 (3) 'Personally identifiable information' means:

62 (A) Any information or combination of information, whether publicly available or not,  
63 that can be used to distinguish or trace a person's identity, residence, location, or  
64 employer, including but not limited to such person's name, prior legal name, alias,  
65 mother's maiden name, social security number, date or place of birth, address, phone  
66 number, religious practices or affiliation, employment information, academic status, life  
67 activities, or biometric data; and

68 (B) Any sensitive private information regarding a person, such as gender identity,  
69 sexual orientation, or any sexually intimate or explicit visual depiction.

70 (4) 'Post' means to circulate, deliver, distribute, disseminate, transmit, or otherwise make  
71 available to one or more persons through electronic communication, including but not  
72 limited to social media platforms and services.

73 (5) 'Reckless' means a gross deviation from the standard of care which a reasonable  
74 person would exercise.

75 (6) 'Significant economic injury' means reasonable financial costs or expenses incurred  
76 by an alleged victim as a result of mental anguish proximately caused by the posting of  
77 that person's personally identifiable information, including, but not limited to, moving  
78 from an established residence, changing daily routines, changing routes or modes of  
79 transportation to and from work, changing employment or work schedules, losing time  
80 from a work or job, damage to personal or real property, or experiencing a monetary loss  
81 of not less than \$500.00.

82 (7) 'Stalking' shall have the same meaning as contained in Article 7 of Chapter 5 of this  
83 title.

84 (b)(1) A person commits the offense of doxing when such person intentionally posts  
85 another person's personally identifying information without their consent and does so  
86 with reckless disregard for whether the information would be reasonably likely to be used  
87 by another party to cause the person whose information is posted to be placed in  
88 reasonable fear of stalking, serious bodily injury or death to oneself or a close relation,  
89 or to suffer a significant economic injury or mental anguish as a result therefrom.

90 (2) A person shall be guilty of a misdemeanor by committing the offense of doxing  
91 prohibited under paragraph (1) of this subsection, except that upon a second or  
92 subsequent conviction for doxing, the person shall be guilty of a high and aggravated  
93 misdemeanor.

94 (c)(1) A person commits the offense of aggravated doxing when such person posts  
95 another person's personally identifying information without their consent with the intent  
96 that another person engage in conduct that is likely to or does cause the person whose  
97 information is posted, or his or her close relation, to suffer death or bodily injury.

98 (2) A person who commits the offense of aggravated doxing is guilty of a felony and,  
99 upon conviction thereof, shall be punished by imprisonment of not less than one nor more  
100 than three years, a fine of not less than \$1,000.00 nor more than \$10,000.00, or both.

101 (d) It shall not be an offense under this Code section for a person to:

102 (1) Provide another person's personally identifiable information in connection with the  
103 reporting of criminal activity to an official, agent, or employee of a law enforcement  
104 agency, protective services agency, criminal investigations agency, intelligence agency,  
105 or homeland security agency of the State of Georgia or of the United States when the  
106 person making the report reasonably believes it is true;

107 (2) Disseminate another person's personally identifiable information for the purpose of  
108 or in connection with the reporting of conduct reasonably believed to be unlawful; or

109 (3) Provide another person's personally identifiable information in connection with  
110 lawful and constitutionally protected activity as it pertains to speech, assembly, and  
111 petition.

112 (e) Nothing in this Code section shall be construed in any manner to:

113 (1) Prevent, prohibit, limit, or restrict the freedom of expression that is protected under  
114 the Georgia Constitution or the First Amendment to the United States Constitution;  
115 provided, however, that speech or conduct including, but not limited to, true threats or  
116 expressive activity directed to provoke and likely to produce imminent lawless actions  
117 shall be prohibited;

118 (2) Conflict with the provisions of the federal Communication Decency Act, 47 U.S.C.  
119 Section 230;

120 (3) Conflict with the provisions of the federal Civil Rights Act of 1871, 42 U.S.C.  
121 Section 1983; or  
122 (4) Prohibit any activity protected under the Constitution of the United States or the  
123 Georgia Constitution."

124 **SECTION 3.**

125 This Act shall become effective on July 1, 2024, and shall apply to all offenses committed  
126 on or after such date.

127 **SECTION 4.**

128 All laws and parts of laws in conflict with this Act are repealed.