

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
95th General Assembly  
Regular Session, 2025

# A Bill

HOUSE BILL 1823

By: Representative Duffield

## For An Act To Be Entitled

AN ACT TO ESTABLISH THE DISRUPT EXPLICIT FORGED IMAGES AND NONCONSENSUAL EDITS ACT OF 2025; TO CLARIFY THE RIGHTS FOR AN INDIVIDUAL AFFECTED BY NONCONSENSUAL ACTIVITIES INVOLVING INTIMATE DIGITAL FORGERIES; AND FOR OTHER PURPOSES.

## Subtitle

TO ESTABLISH THE DISRUPT EXPLICIT FORGED IMAGES AND NONCONSENSUAL EDITS ACT OF 2025; AND TO CLARIFY THE RIGHTS FOR AN INDIVIDUAL AFFECTED BY NONCONSENSUAL ACTIVITIES INVOLVING INTIMATE DIGITAL FORGERIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 4, is amended to add an additional chapter to read as follows:

### CHAPTER 120

#### DISRUPT EXPLICIT FORGED IMAGES AND NONCONSENSUAL EDITS ACT OF 2025

##### 4-120-101. Title.

This chapter shall be known and may be cited as the "Disrupt Explicit Forged Images and Nonconsensual Edits Act of 2025".

##### 4-120-102. Definitions.



As used in this chapter:

(1) "Commercial pornographic content" means any material that is subject to the record keeping requirements under 18 U.S.C. § 2257, as it existed on January 1, 2025;

(2) "Consent" means an affirmative, conscious, competent, and voluntary authorization made by an individual free from force, fraud, misrepresentation, or coercion;

(3) "Digital forgery" means an intimate visual depiction of an identifiable individual created through the use of software, machine learning, artificial intelligence, or any other computer-generated or technological means, including without limitation by adapting, modifying, manipulating, or altering an authentic visual depiction, to appear to a reasonable person to be indistinguishable from an authentic visual depiction of the individual, regardless of whether the visual depiction indicates, through a label or some other form of information published with the visual depiction, that the visual depiction is not authentic;

(4) "Disclose" means to transfer, publish, distribute, or make accessible;

(5) "Identifiable individual" means an individual whose body appears in whole or in part in an intimate visual depiction and who is identifiable by virtue of the person's face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature, or from information displayed in connection with the intimate visual depiction;

(6) "Intimate visual depiction" means a visual depiction, as that term is defined in 18 U.S.C. § 2256(5), as it existed on January 1, 2025, that:

(A) Depicts:

(i) The uncovered genitals, pubic area, anus, or postpubescent female nipple of an identifiable individual;

(ii) The display or transfer of bodily sexual fluids:

(a) On to any part of the body of an identifiable individual; or

(b) From the body of an identifiable individual; or

(iii) An identifiable individual engaging in sexually explicit conduct; and

(B) Includes any intimate visual depictions described under subdivision (6)(A) of this section produced while the identifiable individual was in a public place only if the individual did not:

(i) Voluntarily display the content depicted; or

(ii) Consent to the sexually explicit conduct depicted; and

(7) "Sexually explicit conduct" means the same as defined in subparagraphs (A) and (B) of 18 U.S.C. § 2256(2), as it existed on January 1, 2025.

4-120-103. Right of action – Rights on behalf of certain individuals.

(a) Except as provided in § 4-120-106, an identifiable individual:

(1) Whose intimate visual depiction is disclosed, in such a way to affect interstate or foreign commerce or using any means or facility of interstate or foreign commerce, without the consent of the identifiable individual, where the disclosure was made by a person who knowingly or recklessly disregards that the identifiable individual has not consented to the disclosure, may bring a civil action against that person in an appropriate district court of the State of Arkansas for relief under § 4-120-105;

(2) Who is the subject of a digital forgery may bring a civil action in an appropriate district court of the State of Arkansas for relief under § 4-120-105 against any person that knowingly produced or possessed the digital forgery with intent to disclose it, or knowingly disclosed or solicited the digital forgery, if the:

(A) Identifiable individual did not consent to the production, disclosure, solicitation, or possession;

(B) Person knowingly or recklessly disregarded that the identifiable individual did not consent to the production, disclosure, solicitation, or possession; and

(C) Production, disclosure, solicitation, or possession affects interstate or foreign commerce or uses any means or facility of interstate or foreign commerce; and

(3) Who is the subject of a digital forgery may bring a civil

action in an appropriate district court of the State of Arkansas for relief under § 4-120-105 against any person that knowingly produced the digital forgery if the:

(A) Identifiable individual did not consent to the production;

(B) Person knowingly or recklessly disregarded that the identifiable individual did not consent to the production; and

(C) Production affects interstate or foreign commerce or uses any means or facility of interstate or foreign commerce.

(b)(1) If an identifiable individual is under eighteen (18) years of age, incompetent, incapacitated, or deceased, then the legal guardian of the identifiable individual or representative of the identifiable individual's estate, another family member, or any other person appointed by the court as a suitable representative may assume the identifiable individual's rights under this chapter.

(2) The defendant shall not be named as the representative or guardian under subdivision (b)(1) of this section.

#### 4-120-104. Consent.

For purposes of a civil action under § 4-120-103(a), the fact that the identifiable individual:

(1) Consented to the creation of the intimate visual depiction or digital forgery shall not establish that the person consented to its disclosure, solicitation, or possession; and

(2) Disclosed the intimate visual depiction or digital forgery to someone else shall not establish that the person consented to the further disclosure, solicitation, or possession of the intimate visual depiction or digital forgery by the person alleged to have violated § 4-120-103.

#### 4-120-105. Relief – Preservation of privacy.

(a) In a civil action filed under this chapter:

(1) An identifiable individual may recover:

(A) The actual damages sustained by the defendant or liquidated damages in the amount of one hundred fifty thousand dollars (\$150,000); and

(B) The cost of the action, including reasonable

attorney's fees and other litigation costs reasonably incurred; and

(2) The court may, in addition to any other relief available at law, order equitable relief, including without limitation a temporary restraining order, a preliminary injunction, or a permanent injunction ordering the defendant, including third parties, to cease displaying or disclosing of the intimate visual depiction or digital forgery of the identifiable individual or plaintiff.

(b) In a civil action filed under this chapter, the court may issue an order to protect the privacy of a plaintiff, including without limitation by:

(1) Permitting the plaintiff to use a pseudonym;

(2) Requiring the parties to redact the personal identifying information of the plaintiff from any public filing or to file the documents under seal; and

(3) Issuing a protective order for purposes of discovery, which may include an order indicating that any intimate visual depiction or digital forgery shall remain in the care, custody, and control of the court.

#### 4-120-106. Exceptions.

An identifiable individual may not bring an action for relief under this chapter relating to:

(1) An intimate visual depiction or digital forgery that is commercial pornographic content, unless that content was produced by force, fraud, misrepresentation, or coercion of the identifiable individual;

(2) A disclosure made in good faith:

(A) To a law enforcement officer or agency;

(B) As part of a legal proceeding;

(C) As part of medical education, diagnosis, or treatment;

or

(D) In the reporting or investigation of:

(i) Unlawful content; or

(ii) Unsolicited or unwelcome conduct;

(3) A matter of public concern or public interest; or

(4) A disclosure reasonably intended to assist the identifiable individual.

#### 4-120-107. Statute of limitations.

Any action commenced under this chapter shall be barred unless the complaint is filed not later than ten (10) years from the later of:

(1) The date on which the identifiable individual reasonably discovers the violation that forms the basis for the claim; or

(2) The date on which the identifiable individual reaches eighteen (18) years of age.

4-120-108. Duplicative recovery barred.

Relief shall not be ordered under § 4-120-105 against a person who is subject to a judgment under 18 U.S.C. § 2255, as it existed on January 1, 2025, for the same conduct involving the same identifiable individual and the same intimate visual depiction or digital forgery.