

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

State of Arkansas
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As Engrossed: H4/7/25 S4/9/25

A Bill

HOUSE BILL 1877

By: Representatives S. Meeks, *Achor, Barnes, Barnett, Beaty Jr., Beck, Bentley, Breaux, Brooks, K. Brown, M. Brown, R. Burkes, Crawford, Eubanks, Furman, Gramlich, Hollowell, Ladyman, Lundstrum, Lynch, Maddox, J. Mayberry, McAlindon, McGrew, McGruder, B. McKenzie, Milligan, J. Moore, Nazarenko, Painter, Pearce, Richmond, Rose, Rye, M. Shepherd, Underwood, Vaught*
By: Senator J. Bryant

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING CRIMINAL OFFENSES RELATED TO POSSESSION OF SEXUALLY EXPLICIT MATERIAL THAT DEPICTS A CHILD; TO INCLUDE A COMPUTER GENERATED IMAGE THAT IS INDISTINGUISHABLE FROM THE IMAGE OF A CHILD; AND FOR OTHER PURPOSES.

Subtitle

CONCERNING CRIMINAL OFFENSES RELATED TO POSSESSION OF SEXUALLY EXPLICIT MATERIAL THAT DEPICTS A CHILD; AND TO INCLUDE A COMPUTER GENERATED IMAGE THAT IS INDISTINGUISHABLE FROM THE IMAGE OF A CHILD.

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

SECTION 1. Arkansas Code § 5-27-302, concerning definitions with respect to the Arkansas Protection of Children Against Exploitation Act of 1979, is amended to add additional subdivisions to read as follows:

(6) "Computer generated" means produced, adapted, or modified, in whole or in part, through the use of artificial intelligence;

(7)(A) "Indistinguishable" means a visual or print medium that is such that an ordinary person viewing the visual or print medium would conclude that the visual or print medium depicts an actual child engaged in



the conduct depicted.

(B) "Indistinguishable" does not include a visual or print medium that depicts a child that is a drawing, cartoon, sculpture, or painting; and

(8) "Adversarial testing" means red teaming or another activity or exercise conducted in a controlled environment and in collaboration with an artificial intelligence developer to identify a potential adverse behavior or outcome of a model or system, to determine how the potential adverse behavior or outcome of a model or system could occur, to stress test safeguards, and to conduct other structured evaluation methods as set forth by the National Institute of Standards and Technology.

SECTION 2. Arkansas Code § 5-27-304(a), concerning the offense of pandering or possessing visual or print medium depicting sexually explicit conduct involving a child, is amended to read as follows:

(a) With knowledge of the character of the visual or print medium involved, no person shall do any of the following:

(1) Knowingly advertise for sale or distribution, sell, distribute, transport, ship, exhibit, display, or receive for the purpose of sale or distribution any visual or print medium depicting a child participating or engaging in sexually explicit conduct or that is indistinguishable from the image of a child participating or engaging in sexually explicit conduct, including without limitation a visual or print medium that is computer generated; or

(2) Knowingly solicit, receive, purchase, exchange, possess, view, distribute, or control any visual or print medium depicting a child participating or engaging in sexually explicit conduct or that is indistinguishable from the image of a child participating or engaging in sexually explicit conduct, including without limitation a visual or print medium that is computer generated.

SECTION 3. Arkansas Code § 5-27-304, concerning the offense of pandering or possessing visual or print medium depicting sexually explicit conduct involving a child, is amended to add an additional subsection to read as follows:

(c) This section does not apply to:

(1) A visual or print medium possessed, controlled, or intentionally viewed as part of a law enforcement investigation; or

(2)(A) An interactive computer service as defined in 47 U.S.C. § 230 for:

(i) Content provided by another party; and

(ii) Computer generated visual or print medium depicting sexually explicit conduct involving a child when the visual or print medium is generated as part of adversarial testing conducted in good faith to prevent, detect, or mitigate the risk of artificial intelligence systems generating visual or print medium depicting sexually explicit conduct involving a child.

(B) Subdivision (c)(2)(A) of this section does not include a person who engages in adversarial testing for personal or exploitative purposes or for purposes unrelated to legitimate artificial intelligence safety testing.

SECTION 4. Arkansas Code § 5-27-601(13) is repealed.

~~(13) "Reproduction" includes, but is not limited to, a computer-generated image;~~

SECTION 5. Arkansas Code § 5-27-601, concerning definitions with respect to computer crimes against minors, is amended to add additional subdivisions to read as follows:

(16) "Computer generated image" means a picture or video produced, adapted, or modified, in part or in whole, through the use of artificial intelligence;

(17)(A) "Indistinguishable" means that a depiction is such that an ordinary person viewing the depiction would conclude that it is a depiction of an actual child engaged in the conduct depicted.

(B) "Indistinguishable" does not include a depiction of a child that is a drawing, cartoon sculpture, or painting; and

(18) "Adversarial testing" means red teaming or another activity or exercise conducted in a controlled environment and in collaboration with an artificial intelligence developer to identify a potential adverse behavior or outcome of a model or system, to determine how the potential adverse behavior or outcome of a model or system could occur, to stress test

safeguards, and to conduct other structured evaluation methods as set forth by the National Institute of Standards and Technology.

SECTION 6. Arkansas Code § 5-27-602(a), concerning the offense of distributing, possessing, or viewing matter depicting sexually explicit conduct involving a child, is amended to read as follows:

(a) A person commits distributing, possessing, or viewing of matter depicting sexually explicit conduct involving a child if the person knowingly:

(1) Receives for the purpose of selling or knowingly sells, procures, manufactures, gives, provides, lends, trades, mails, delivers, transfers, publishes, distributes, circulates, disseminates, presents, exhibits, advertises, offers, or agrees to offer through any means, including the internet, any photograph, film, videotape, computer program or file, video game, computer generated image, or any other reproduction or reconstruction that depicts a child or incorporates the image of a child engaging in sexually explicit conduct or is indistinguishable from the image of a child engaging in sexually explicit conduct, whether made or produced by electronic, mechanical, or other means; or

(2) Possesses or views through any means, including on the internet, any photograph, film, videotape, computer program or file, ~~computer-generated~~ computer generated image, video game, or any other reproduction that depicts a child or incorporates the image of a child engaging in sexually explicit conduct or is indistinguishable from the image of a child engaging in sexually explicit conduct, including those made or produced by electronic, mechanical, or other means.

SECTION 7. Arkansas Code § 5-27-602, concerning distributing, possessing, or viewing of matter depicting sexually explicit conduct involving a child, is amended to add an additional subsection to read as follows:

(d) This section does not apply to:

(1) Matter depicting sexually explicit conduct involving a child possessed, controlled, or intentionally viewed as part of a law enforcement investigation; or

(2)(A) An interactive computer service as defined in 47 U.S.C. §

230 for:

(i) Content provided by another party; or

(ii) Computer generated matter depicting sexually explicit conduct involving a child when the matter is generated as part of adversarial testing conducted in good faith to prevent, detect, or mitigate the risk of artificial intelligence systems generating matter depicting sexually explicit conduct involving a child.

(B) Subdivision (d)(2)(A) of this section does not include a person who engages in adversarial testing for personal or exploitative purposes or for purposes unrelated to legitimate artificial intelligence safety testing.

SECTION 8. Arkansas Code § 5-27-603 is amended to read as follows:

~~5-27-603. Possession or use of child sexual abuse material~~ Electronic facilitation of child sexual abuse.

~~(a) A person commits possession or use of child sexual abuse material~~ electronic facilitation of child sexual abuse if the person knowingly:

(1) Compiles, enters into, or transmits by means of computer, makes, prints, publishes, or reproduces by other computerized means, knowingly causes or allows to be entered into or transmitted by means of computer or buys, sells, receives, exchanges, or disseminates any notice, statement, or advertisement or any child's name, telephone number, place of residence, physical characteristics, or other descriptive or identifying information for purposes of facilitating, encouraging, offering, or soliciting sexually explicit conduct of or with any child or another individual believed by the person to be a child, or the visual depiction of the conduct including a visual depiction that is a computer generated image of sexually explicit conduct with any child or another individual believed by the person to be a child or that is indistinguishable from the image of a child; or

(2) Utilizes an online computer service, internet service, or local bulletin board service to seduce, solicit, lure, or entice or attempt to seduce, solicit, lure, or entice a child or another individual believed by the person to be a child, to engage in sexually explicit conduct.

~~(b) Possession or use of child sexual abuse material~~ Electronic facilitation of child sexual abuse is a Class B felony.

SECTION 9. Arkansas Code § 5-27-609(a)(2)(A), concerning the definition of sexually explicit digital material with respect to the offense of possession of sexually explicit digital material, is amended to read as follows:

(2)(A) “Sexually explicit digital material” means any photograph, digitized impact, or visual depiction of a minor or a computer generated image that is that is indistinguishable from a depiction of a minor:

- (i) In any condition of nudity; or
- (ii) Involved in any prohibited sexual act.

/s/S. Meeks