

HOUSE COMMITTEE OF REFERENCE REPORT

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Chair of Committee

\_\_\_\_\_  
May 3, 2025  
Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

SB25-288 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend reengrossed bill, page 3, strike lines 12 through 15 and substitute:

2 "(1) "BROADCASTER" MEANS:

3 (a) AN ENTITY THAT OPERATES A LICENSED AM, FM, OR  
4 TELEVISION BROADCAST FACILITY UNDER THE JURISDICTION OF THE  
5 FEDERAL COMMUNICATIONS COMMISSION, INCLUDING A DIGITAL  
6 PLATFORM OWNED AND OPERATED BY THE ENTITY; OR

7 (b) A RADIO OR TELEVISION BROADCASTING STATION, INCLUDING  
8 A CABLE OR SATELLITE TELEVISION OPERATOR, PROGRAMMER, PRODUCER,  
9 OR STREAMING SERVICE."

10 Page 9, after line 24 insert:

11 "(5) THIS PART 15 DOES NOT APPLY TO THE PROVIDER OF  
12 TECHNOLOGY USED IN THE CREATION OF AN INTIMATE DIGITAL  
13 DEPICTION."

14 Renumber succeeding subsections accordingly.

15 Page 10, line 25, strike "(6)(a)(II)" and substitute "(8)(a)(II)".

16 Page 11, line 1, strike "(6)" and substitute "(8)".

17 Page 12, line 12, strike "(2)(j) and (3.5); and **add** (1.7)," and substitute  
18 "(1), (1.5), (2)(j), and (3.5); and **add**" and strike "(2)(f.5)," and substitute  
19 "(2)(e.3),".

20 Page 12, strike lines 13 through 27.

1 Page 13, strike lines 1 through 17 and substitute:

2 **"18-6-403. Sexual exploitation of a child - legislative**  
3 **declaration - definitions.** (1) The general assembly hereby finds and  
4 declares: That the sexual exploitation of children constitutes a wrongful  
5 invasion of the child's right of privacy and results in social,  
6 developmental, and emotional injury to the child; that a child below the  
7 age of eighteen years is incapable of giving informed consent to the use  
8 of ~~his or her~~ THE CHILD'S body for a sexual purpose OR TO THE USE OF ALL  
9 OR PART OF THE CHILD'S IMAGE TO CREATE SEXUALLY EXPLOITATIVE  
10 MATERIAL; and that to protect children from sexual exploitation it is  
11 necessary to prohibit the production of material which involves or is  
12 derived from such exploitation and to exclude all such material from the  
13 channels of trade and commerce.

14 (1.5) The general assembly further finds and declares that the  
15 mere possession or control of any sexually exploitative material results in  
16 continuing victimization of our children by the fact that such material is  
17 a permanent record of an act or acts of sexual abuse of a child; THAT THE  
18 CREATION OR THE MERE POSSESSION OR CONTROL OF  
19 COMPUTER-GENERATED MATERIAL OR DIGITAL DEPICTIONS USING ALL OR  
20 PART OF THE IMAGE OF A CHILD IN SEXUALLY EXPLOITATIVE MATERIAL  
21 RESULTS IN THE VICTIMIZATION OF OUR CHILDREN; that each time such  
22 material is shown or viewed, the child is harmed; that such material is  
23 used to break down the will and resistance of other children to encourage  
24 them to participate in similar acts of sexual abuse; that laws banning the  
25 production and distribution of such material are insufficient to halt this  
26 abuse; that in order to stop the sexual exploitation and abuse of our  
27 children, it is necessary for the state to ban the possession of any sexually  
28 exploitative materials; and that the state has a compelling interest in  
29 outlawing the possession of any sexually exploitative materials in order  
30 to protect society as a whole, and particularly the privacy, health, and  
31 emotional welfare of its children."

32 Page 13, strike lines 21 through 27.

33 Page 14, strike lines 1 through 8 and substitute:

34 "(e.3) "IDENTIFIABLE CHILD" MEANS A PERSON WHO:

35 (I) WAS UNDER THE AGE OF EIGHTEEN AT THE TIME A REALISTIC  
36 VISUAL DEPICTION OF THE PERSON WAS CREATED, PRODUCED, OR ALTERED  
37 OR A PERSON WHOSE IMAGE IS USED TO CREATE OR PRODUCE A REALISTIC  
38 VISUAL DEPICTION OR WHOSE IMAGE IS ALTERED TO BE A REALISTIC

1 VISUAL DEPICTION, AND WHO WAS UNDER THE AGE OF EIGHTEEN AT THE  
2 TIME THE IMAGE WAS CAPTURED; AND

3 (II) IS IDENTIFIABLE BY VIRTUE OF THE INDIVIDUAL'S FACE,  
4 LIKENESS, OR OTHER DISTINGUISHING CHARACTERISTIC, INCLUDING A  
5 UNIQUE BIRTHMARK OR OTHER RECOGNIZABLE FEATURE."

6 Page 14, line 15, strike "WHETHER" and substitute "WHICH HAS BEEN".

7 Page 14, line 17, strike "THAT IS INDISTINGUISHABLE FROM THAT OF A  
8 CHILD" and substitute "THAT DEPICTS AN IDENTIFIABLE CHILD, IN WHOLE  
9 OR IN PART,".

10 Page 14, strike line 19 and substitute "CONDUCT."

11 Page 15, strike lines 1 through 3 and substitute:

12 "(9) A PROSECUTION BROUGHT PURSUANT TO THIS SECTION DOES  
13 NOT REQUIRE PROOF OF THE ACTUAL IDENTITY OF AN IDENTIFIABLE  
14 CHILD."

15 Page 15, strike lines 23 and 24 and substitute: "(I) ~~With the intent to~~  
16 ~~harass, intimidate, or coerce the depicted person;~~".

17 Page 16, strike lines 4 through 6 and substitute:

18 "(IV) (A) WITH THE INTENT TO HARASS, INTIMIDATE, OR COERCE  
19 THE DEPICTED INDIVIDUAL; OR

20 (B) WHEN THE ACTOR KNEW OR REASONABLY SHOULD HAVE  
21 KNOWN THAT THE DEPICTED INDIVIDUAL HAD A REASONABLE  
22 EXPECTATION THAT THE PRIVATE INTIMATE IMAGE OR INTIMATE DIGITAL  
23 DEPICTION WOULD REMAIN PRIVATE; AND

24 (V) THE DISCLOSURE OR THREAT TO DISCLOSE CAUSED PHYSICAL,  
25 EMOTIONAL, OR REPUTATIONAL HARM TO THE DEPICTED INDIVIDUAL."

26 Page 16, strike lines 11 through 15 and substitute:

27 "AND THE DISCLOSURE POSED AN IMMINENT AND SERIOUS THREAT TO THE  
28 DEPICTED".

29 Page 21, strike lines 17 through 20 and substitute:

30 "(B) When the actor knew or REASONABLY should have known  
31 that: ~~the depicted person had a reasonable expectation that the image~~

1 ~~would remain private.~~

2 (A) THE DEPICTED INDIVIDUAL HAD A REASONABLE EXPECTATION  
3 THAT THE PRIVATE INTIMATE IMAGE OR INTIMATE DIGITAL DEPICTION  
4 WOULD REMAIN PRIVATE; AND

5 (B) THE DISCLOSURE WOULD CAUSE FINANCIAL HARM TO THE  
6 DEPICTED INDIVIDUAL."

7 Page 21, strike lines 25 through 27.

8 Page 22, strike lines 1 and 2 and substitute "AND THE DISCLOSURE POSED  
9 AN IMMINENT AND SERIOUS THREAT TO THE DEPICTED".

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