

**As Introduced**

**135th General Assembly  
Regular Session  
2023-2024**

**S. B. No. 217**

**Senators Blessing, Johnson  
Cosponsor: Senator Ingram**



**A BILL**

To amend sections 1345.51, 2907.321, and 2913.49 1  
and to enact sections 1349.10 and 2907.324 of 2  
the Revised Code to require AI-generated 3  
products have a watermark, to prohibit simulated 4  
child pornography, and to prohibit identity 5  
fraud using a replica of a person. 6

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 1345.51, 2907.321, and 2913.49 be 7  
amended and sections 1349.10 and 2907.324 of the Revised Code be 8  
enacted to read as follows: 9

**Sec. 1345.51.** There is hereby created in the state 10  
treasury the consumer protection enforcement fund. The fund 11  
shall include civil penalties ordered pursuant to divisions (A) 12  
and (D) of section 1345.07 of the Revised Code and paid as 13  
provided in division (G) of that section, all civil penalties 14  
ordered pursuant to division (E) of section 1349.10 of the 15  
Revised Code, all civil penalties assessed under division (A) of 16  
section 1349.192 of the Revised Code, all costs awarded to the 17  
attorney general and all penalties imposed under section 4549.48 18

of the Revised Code, and all money unclaimed under section 19  
4549.50 of the Revised Code. The money in the consumer 20  
protection enforcement fund shall be used for the sole purpose 21  
of paying expenses incurred by the consumer protection section 22  
of the office of the attorney general. 23

Sec. 1349.10. (A) As used in this section, "artificial 24  
intelligence" and "AI" mean a machine-based system that, for a 25  
given set of human-defined objectives, uses machine- and human- 26  
based inputs to make predictions, recommendations, or decisions 27  
influencing real or virtual environments. "Artificial 28  
intelligence" and "AI" include only machine-based systems that 29  
are capable of all of the following: 30

(1) Perceiving real and virtual environments; 31

(2) Abstracting such perceptions into models through 32  
analysis in an automated manner; 33

(3) Using model inference to formulate options for 34  
information or action. 35

(B) Artificial intelligence systems shall be programmed to 36  
provide a distinctive watermark on any AI-generated product that 37  
informs the user that the particular product was generated using 38  
an AI system. 39

(C) No person shall remove a watermark required by this 40  
section with the purpose of concealing that the product was 41  
generated using artificial intelligence. 42

(D) Any person aggrieved by a violation of division (B) or 43  
(C) of this section has and may commence a civil action against 44  
the violator for damages that result from the violation. In a 45  
civil action under this division, any person found to have 46  
removed a watermark required by this section shall be rebuttably 47

presumed to have caused the harm alleged in the complaint. 48

(E) In addition to the civil action authorized under 49  
division (D) of this section, the attorney general may commence 50  
a civil action against a person that violates division (C) or 51  
(D) of this section for injunctive relief and, in the case of a 52  
person that violates division (C) of this section, a civil 53  
penalty of up to ten thousand dollars. All civil penalties 54  
collected under this division shall be deposited to the consumer 55  
protection enforcement fund created by section 1345.51 of the 56  
Revised Code. 57

**Sec. 2907.321.** (A) No person, with knowledge of the 58  
character of the material or performance involved, shall do any 59  
of the following: 60

(1) Create, reproduce, or publish any obscene material 61  
that has a minor or impaired person as one of its participants 62  
or portrayed observers; 63

(2) Promote or advertise for sale or dissemination; sell, 64  
deliver, disseminate, display, exhibit, present, rent, or 65  
provide; or offer or agree to sell, deliver, disseminate, 66  
display, exhibit, present, rent, or provide, any obscene 67  
material that has a minor or impaired person as one of its 68  
participants or portrayed observers; 69

(3) Create, direct, or produce an obscene performance that 70  
has a minor or impaired person as one of its participants; 71

(4) Advertise or promote for presentation, present, or 72  
participate in presenting an obscene performance that has a 73  
minor or impaired person as one of its participants; 74

(5) Buy, procure, possess, or control any obscene 75  
material, that has a minor or impaired person as one of its 76

participants;	77
(6) Bring or cause to be brought into this state any	78
obscene material that has a minor or impaired person as one of	79
its participants or portrayed observers;	80
<u>(7) Make or transmit any simulated obscene material;</u>	81
<u>(8) Buy, procure, possess, or control any simulated</u>	82
<u>obscene material.</u>	83
(B) (1) This section does not apply to any material or	84
performance that is sold, disseminated, displayed, possessed,	85
controlled, brought or caused to be brought into this state, or	86
presented for a bona fide medical, scientific, educational,	87
religious, governmental, judicial, or other proper purpose, by	88
or to a physician, psychologist, sociologist, scientist,	89
teacher, person pursuing bona fide studies or research,	90
librarian, member of the clergy, prosecutor, judge, or other	91
person having a proper interest in the material or performance.	92
(2) Mistake of age is not a defense to a charge under this	93
section.	94
(3) In a prosecution under this section, the trier of fact	95
may infer that a person in the material or performance involved	96
is a minor or impaired person if the material or performance,	97
through its title, text, visual representation, or otherwise,	98
represents or depicts the person as a minor or impaired person.	99
(C) Whoever violates this section is guilty of pandering	100
obscenity involving a minor or impaired person. If the offense	101
involves a minor, a violation of division (A) (1), (2), (3), (4),	102
or (6) of this section is a felony of the second degree. If the	103
offense involves an impaired person, a violation of division (A)	104
(1), (2), (3), (4), or (6) of this section is a felony of the	105

third degree. A violation of division (A) (5) or (8) of this 106  
section is a felony of the fourth degree. A violation of 107  
division (A) (7) of this section is a felony of the third degree. 108

If the offender previously has been convicted of or pleaded 109  
guilty to a violation of this section or section 2907.322 or 110  
2907.323 of the Revised Code, pandering obscenity involving a 111  
minor or impaired person in violation of division (A) (5) of this 112  
section is a felony of the third degree. 113

(D) As used in this section and sections 2907.322 and 114  
2907.323 of the Revised Code, ~~"impaired":~~ 115

(1) "Impaired person" means a person whose ability to 116  
resist or consent is substantially impaired because of a mental 117  
or physical condition or because of advanced age, and the 118  
offender knows or has reasonable cause to believe that the other 119  
person's ability to resist or consent is substantially impaired 120  
because of a mental or physical condition or because of advanced 121  
age. 122

(2) "Simulated obscene material" means any visual 123  
depiction of a minor or impaired person, including an image 124  
generated by artificial intelligence, that would constitute a 125  
violation of this section or section 2907.322 or 2907.323 of the 126  
Revised Code if the minor depicted was a natural person. 127

(3) "Artificial intelligence" has the same meaning as in 128  
section 1349.10 of the Revised Code. 129

**Sec. 2907.324.** (A) No person, web site, social media 130  
platform, internet service provider, or cellular telephone 131  
provider shall fail to remove from a web site, platform, web 132  
page, or other electronic communication any electronic image, 133  
text, or video that contains simulated child obscenity 134

prohibited by divisions (A) (7) and (8) of section 2907.321 of 135  
the Revised Code, or any electronic image, text, or video, the 136  
creation, use or dissemination of which is prohibited by 137  
division (H) or (I) of section 2913.49 of the Revised Code, 138  
within twenty-four hours after receiving notice from the 139  
attorney general. 140

(B) Any person, web site, social media platform, internet 141  
service provider, or cellular telephone provider that fails to 142  
comply with division (A) of this section is liable for civil 143  
penalties of up to one thousand dollars per day. The attorney 144  
general may bring in any court of competent jurisdiction a civil 145  
enforcement action for declaratory relief seeking compliance 146  
with this section. In the action, the attorney general may seek 147  
a temporary restraining order, preliminary or permanent 148  
injunction, and any civil penalties. Any civil penalty paid in 149  
accordance with this section shall be credited to the attorney 150  
general's consumer protection fund established in accordance 151  
with section 1345.51 of the Revised Code. 152

**Sec. 2913.49.** (A) As used in this section, ~~"personal :~~ 153

(1) "Personal identifying information" includes, but is 154  
not limited to, the following: the name, address, telephone 155  
number, driver's license, driver's license number, commercial 156  
driver's license, commercial driver's license number, state 157  
identification card, state identification card number, social 158  
security card, social security number, birth certificate, place 159  
of employment, employee identification number, mother's maiden 160  
name, demand deposit account number, savings account number, 161  
money market account number, mutual fund account number, other 162  
financial account number, personal identification number, 163  
password, or credit card number of a living or dead individual. 164

(2) "Replica of a person's persona" or "replica" means a modified or fabricated version of an individual's voice, photograph, image, likeness, or distinctive appearance that is created or presented in a manner that it appears to be the individual's authentic persona. The term includes the modifications and fabrications produced in whole or in part by artificial intelligence.

(3) "Artificial intelligence" has the same meaning as in section 1349.10 of the Revised Code.

(B) No person, without the express or implied consent of the other person, shall use, obtain, or possess any personal identifying information of another person with intent to do either of the following:

(1) Hold the person out to be the other person;

(2) Represent the other person's personal identifying information as the person's own personal identifying information.

(C) No person shall create, obtain, possess, or use the personal identifying information of any person with the intent to aid or abet another person in violating division (B) of this section.

(D) No person, with intent to defraud, shall permit another person to use the person's own personal identifying information or a replica of the person's persona.

(E) No person who is permitted to use another person's personal identifying information as described in division (D) of this section shall use, obtain, or possess the other person's personal identifying information with intent to defraud any person by doing any act identified in division (B) (1) or (2) of

this section. 194

~~(F)(1)~~ (F) No person shall create or use a replica of a 195  
person's persona in a manner that would induce any other person 196  
to make a financial decision or extend credit to any person in 197  
reliance on the replica without the express consent of the 198  
individual whose persona is replicated. 199

(G) No person shall create or use a replica with the 200  
intent to damage any person's or entity's reputation, including 201  
the reputation of the individual whose persona is replicated. 202

(H) No person shall create, use, or disseminate a replica 203  
of a person's persona in a manner that depicts the individual 204  
whose persona is replicated in a state of nudity, engaging in 205  
sexual activity, or in any obscene material without the consent 206  
of the individual whose persona is replicated. 207

(I) No person shall create, use, or disseminate a replica 208  
of a person's persona for the purposes of violating or 209  
attempting to violate section 2905.05, 2907.321, 2907.322, or 210  
2907.323 of the Revised Code. 211

(J)(1) It is an affirmative defense to a charge under 212  
division (B) of this section that the person using the personal 213  
identifying information is acting in accordance with a legally 214  
recognized guardianship or conservatorship or as a trustee or 215  
fiduciary. 216

(2) It is an affirmative defense to a charge under 217  
division (B), (C), (D), or (E) of this section that either of 218  
the following applies: 219

(a) The person or entity using, obtaining, possessing, or 220  
creating the personal identifying information or replica, or 221  
permitting it to be used, is a law enforcement agency, 222

authorized fraud personnel, or a representative of or attorney 223  
for a law enforcement agency or authorized fraud personnel and 224  
is using, obtaining, possessing, or creating the personal 225  
identifying information or replica, or permitting it to be used, 226  
with prior consent given as specified in this division, in a 227  
bona fide investigation, an information security evaluation, a 228  
pretext calling evaluation, or a similar matter. The prior 229  
consent required under this division shall be given by the 230  
person whose personal identifying information or replica is 231  
being used, obtained, possessed, or created or is being 232  
permitted to be used or, if the person whose personal 233  
identifying information or replica is being used, obtained, 234  
possessed, or created or is being permitted to be used is 235  
deceased, by that deceased person's executor, or a member of 236  
that deceased person's family, or that deceased person's 237  
attorney. The prior consent required under this division may be 238  
given orally or in writing by the person whose personal 239  
identifying information or replica is being used, obtained, 240  
possessed, or created or is being permitted to be used or that 241  
person's executor, or family member, or attorney. 242

(b) The personal identifying information or replica was 243  
obtained, possessed, used, created, or permitted to be used for 244  
a lawful purpose, provided that division ~~(F) (2) (b)~~ (J) (2) (b) of 245  
this section does not apply if the person or entity using, 246  
obtaining, possessing, or creating the personal identifying 247  
information or replica, or permitting it to be used, is a law 248  
enforcement agency, authorized fraud personnel, or a 249  
representative of or attorney for a law enforcement agency or 250  
authorized fraud personnel that is using, obtaining, possessing, 251  
or creating the personal identifying information or replica, or 252  
permitting it to be used, in an investigation, an information 253

security evaluation, a pretext calling evaluation, or similar 254  
matter. 255

~~(G)~~(K) It is not a defense to a charge under this section 256  
that the person whose personal identifying information or 257  
replica was obtained, possessed, used, created, or permitted to 258  
be used was deceased at the time of the offense. 259

~~(H)~~~~(1)~~(L) (1) If an offender commits a violation of 260  
division (B), (D), or (E) of this section and the violation 261  
occurs as part of a course of conduct involving other violations 262  
of division (B), (D), or (E) of this section or violations of, 263  
attempts to violate, conspiracies to violate, or complicity in 264  
violations of division (C) of this section or section 2913.02, 265  
2913.04, 2913.11, 2913.21, 2913.31, 2913.42, 2913.43, or 2921.13 266  
of the Revised Code, the court, in determining the degree of the 267  
offense pursuant to division ~~(I)~~(M) of this section, may 268  
aggregate all credit, property, or services obtained or sought 269  
to be obtained by the offender and all debts or other legal 270  
obligations avoided or sought to be avoided by the offender in 271  
the violations involved in that course of conduct. The course of 272  
conduct may involve one victim or more than one victim. 273

(2) If an offender commits a violation of division (C) of 274  
this section and the violation occurs as part of a course of 275  
conduct involving other violations of division (C) of this 276  
section or violations of, attempts to violate, conspiracies to 277  
violate, or complicity in violations of division (B), (D), or 278  
(E) of this section or section 2913.02, 2913.04, 2913.11, 279  
2913.21, 2913.31, 2913.42, 2913.43, or 2921.13 of the Revised 280  
Code, the court, in determining the degree of the offense 281  
pursuant to division ~~(I)~~(M) of this section, may aggregate all 282  
credit, property, or services obtained or sought to be obtained 283

by the person aided or abetted and all debts or other legal 284  
obligations avoided or sought to be avoided by the person aided 285  
or abetted in the violations involved in that course of conduct. 286  
The course of conduct may involve one victim or more than one 287  
victim. 288

~~(I) (1)~~ (M) (1) Whoever violates this section is guilty of 289  
identity fraud. 290

(2) Except as otherwise provided in this division or 291  
division ~~(I) (3)~~ (M) (3) of this section, identity fraud is a 292  
felony of the fifth degree. If the value of the credit, 293  
property, services, debt, or other legal obligation involved in 294  
the violation or course of conduct is one thousand dollars or 295  
more and is less than seven thousand five hundred dollars, 296  
except as otherwise provided in division ~~(I) (3)~~ (M) (3) of this 297  
section, identity fraud is a felony of the fourth degree. If the 298  
value of the credit, property, services, debt, or other legal 299  
obligation involved in the violation or course of conduct is 300  
seven thousand five hundred dollars or more and is less than one 301  
hundred fifty thousand dollars, except as otherwise provided in 302  
division ~~(I) (3)~~ (M) (3) of this section, identity fraud is a 303  
felony of the third degree. If the value of the credit, 304  
property, services, debt, or other legal obligation involved in 305  
the violation or course of conduct is one hundred fifty thousand 306  
dollars or more, except as otherwise provided in division ~~(I) (3)~~ 307  
(M) (3) of this section, identity fraud is a felony of the second 308  
degree. 309

(3) If the victim of the offense is a minor, an elderly 310  
person, disabled adult, active duty service member, or spouse of 311  
an active duty service member, a violation of this section is 312  
identity fraud against a person in a protected class. Except as 313

otherwise provided in this division, identity fraud against a 314  
person in a protected class is a felony of the fourth degree. If 315  
the value of the credit, property, services, debt, or other 316  
legal obligation involved in the violation or course of conduct 317  
is one thousand dollars or more and is less than seven thousand 318  
five hundred dollars, identity fraud against a person in a 319  
protected class is a felony of the third degree. If the value of 320  
the credit, property, services, debt, or other legal obligation 321  
involved in the violation or course of conduct is seven thousand 322  
five hundred dollars or more and is less than one hundred fifty 323  
thousand dollars, identity fraud against a person in a protected 324  
class is a felony of the second degree. If the value of the 325  
credit, property, services, debt, or other legal obligation 326  
involved in the violation or course of conduct is one hundred 327  
fifty thousand dollars or more, identity fraud against a person 328  
in a protected class is a felony of the first degree. If the 329  
victim of the offense is an elderly person, in addition to any 330  
other penalty imposed for the offense, the offender shall be 331  
required to pay full restitution to the victim and to pay a fine 332  
of up to fifty thousand dollars. The clerk of court shall 333  
forward all fines collected under this division ~~(I) (3) of this~~ 334  
~~section~~ to the county department of job and family services to 335  
be used for the reporting and investigation of elder abuse, 336  
neglect, and exploitation or for the provision or arrangement of 337  
protective services under sections 5101.61 to 5101.71 of the 338  
Revised Code. 339

~~(J)~~ (N) In addition to the penalties described in division 340  
~~(I)~~ (M) of this section, anyone injured in person or property by 341  
a violation of division (B), (D), or (E) of this section who is 342  
the owner of the identifying information involved, or whose 343  
persona is replicated, in that violation has a civil action 344

against the offender pursuant to section 2307.60 of the Revised 345  
Code. That person may also bring a civil action to enjoin or 346  
restrain future acts that would constitute a violation of 347  
division (B), (D), or (E) of this section. 348

**Section 2.** That existing sections 1345.51, 2907.321, and 349  
2913.49 of the Revised Code are hereby repealed. 350