

As Introduced

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Representatives Klopfenstein, Williams

**Cosponsors: Representatives John, Bird, Stewart, Newman, Hall, T., Fischer,
Fowler Arthur, Click**

To amend sections 2907.321, 2907.322, and 2907.323 1
of the Revised Code to prohibit use of an 2
artificially generated depiction of a minor for 3
obscene purposes. 4

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

Section 1. That sections 2907.321, 2907.322, and 2907.323 5
of the Revised Code be amended to read as follows: 6

Sec. 2907.321. (A) No person, with knowledge of the 7
character of the material or performance involved, shall do any 8
of the following: 9

(1) Create, reproduce, or publish any obscene material 10
that has a minor, an artificially generated depiction of a 11
minor, or impaired person as one of its participants or 12
portrayed observers; 13

(2) Promote or advertise for sale or dissemination; sell, 14
deliver, disseminate, display, exhibit, present, rent, or 15
provide; or offer or agree to sell, deliver, disseminate, 16
display, exhibit, present, rent, or provide, any obscene 17
material that has a minor, an artificially generated depiction 18

of a minor, or impaired person as one of its participants or 19
portrayed observers; 20

(3) Create, direct, or produce an obscene performance that 21
has a minor, an artificially generated depiction of a minor, or 22
impaired person as one of its participants; 23

(4) Advertise or promote for presentation, present, or 24
participate in presenting an obscene performance that has a 25
minor, an artificially generated depiction of a minor, or 26
impaired person as one of its participants; 27

(5) Buy, procure, possess, or control any obscene 28
material, that has a minor, an artificially generated depiction 29
of a minor, or impaired person as one of its participants; 30

(6) Bring or cause to be brought into this state any 31
obscene material that has a minor, an artificially generated 32
depiction of a minor, or impaired person as one of its 33
participants or portrayed observers. 34

(B) (1) This section does not apply to any material or 35
performance that is sold, disseminated, displayed, possessed, 36
controlled, brought or caused to be brought into this state, or 37
presented for a bona fide medical, scientific, educational, 38
religious, governmental, judicial, or other proper purpose, by 39
or to a physician, psychologist, sociologist, scientist, 40
teacher, person pursuing bona fide studies or research, 41
librarian, member of the clergy, prosecutor, judge, or other 42
person having a proper interest in the material or performance. 43

(2) Mistake of age is not a defense to a charge under this 44
section. 45

(3) In a prosecution under this section, the trier of fact 46
may infer that a person in the material or performance involved 47

is a minor, an artificially generated depiction of a minor, or 48
impaired person if the material or performance, through its 49
title, text, visual representation, or otherwise, represents or 50
depicts the person as a minor, an artificially generated 51
depiction of a minor, or impaired person. 52

(C) Whoever violates this section is guilty of pandering 53
obscenity involving a minor, an artificially generated depiction 54
of a minor, or impaired person. If the offense involves a minor_ 55
or an artificially generated depiction of a minor, a violation 56
of division (A) (1), (2), (3), (4), or (6) of this section is a 57
felony of the second degree. If the offense involves an impaired 58
person, a violation of division (A) (1), (2), (3), (4), or (6) of 59
this section is a felony of the third degree. A violation of 60
division (A) (5) of this section is a felony of the fourth 61
degree. If the offender previously has been convicted of or 62
pleaded guilty to a violation of this section or section 63
2907.322 or 2907.323 of the Revised Code, pandering obscenity 64
involving a minor, an artificially generated depiction of a 65
minor, or impaired person in violation of division (A) (5) of 66
this section is a felony of the third degree. 67

(D) As used in this section and sections 2907.322 and 68
2907.323 of the Revised Code, ~~"impaired":~~ 69

(1) "Artificially generated depiction" means a visual 70
depiction of an actual person that was created or edited by 71
artificial intelligence or other computer-generated means and 72
that a reasonable person would believe depicts or represents an 73
actual person who is identifiable by the person's face, 74
likeness, or other distinguishing characteristic. 75

(2) "Impaired person" means a person whose ability to 76
resist or consent is substantially impaired because of a mental 77

or physical condition or because of advanced age, and the 78
offender knows or has reasonable cause to believe that the other 79
person's ability to resist or consent is substantially impaired 80
because of a mental or physical condition or because of advanced 81
age. 82

Sec. 2907.322. (A) No person, with knowledge of the 83
character of the material or performance involved, shall do any 84
of the following: 85

(1) Create, record, photograph, film, develop, reproduce, 86
or publish any material that shows a minor, an artificially 87
generated depiction of a minor, or impaired person participating 88
or engaging in sexual activity, masturbation, or bestiality; 89

(2) Advertise for sale or dissemination, sell, distribute, 90
transport, disseminate, exhibit, or display any material that 91
shows a minor, an artificially generated depiction of a minor, 92
or impaired person participating or engaging in sexual activity, 93
masturbation, or bestiality; 94

(3) Create, direct, or produce a performance that shows a 95
minor, an artificially generated depiction of a minor, or 96
impaired person participating or engaging in sexual activity, 97
masturbation, or bestiality; 98

(4) Advertise for presentation, present, or participate in 99
presenting a performance that shows a minor, an artificially 100
generated depiction of a minor, or impaired person participating 101
or engaging in sexual activity, masturbation, or bestiality; 102

(5) Knowingly solicit, receive, purchase, exchange, 103
possess, or control any material that shows a minor, an 104
artificially generated depiction of a minor, or impaired person 105
participating or engaging in sexual activity, masturbation, or 106

bestiality;	107
(6) Bring or cause to be brought into this state any	108
material that shows a minor, <u>an artificially generated depiction</u>	109
<u>of a minor,</u> or impaired person participating or engaging in	110
sexual activity, masturbation, or bestiality;	111
(7) Bring, cause to be brought, or finance the bringing of	112
any minor, <u>an artificially generated depiction of a minor,</u> or	113
impaired person into or across this state with the intent that	114
the minor or impaired person engage in sexual activity,	115
masturbation, or bestiality in a performance or for the purpose	116
of producing material containing a visual representation	117
depicting the minor, <u>an artificially generated depiction of a</u>	118
<u>minor,</u> or impaired person engaged in sexual activity,	119
masturbation, or bestiality.	120
(B) (1) This section does not apply to any material or	121
performance that is sold, disseminated, displayed, possessed,	122
controlled, brought or caused to be brought into this state, or	123
presented for a bona fide medical, scientific, educational,	124
religious, governmental, judicial, or other proper purpose, by	125
or to a physician, psychologist, sociologist, scientist,	126
teacher, person pursuing bona fide studies or research,	127
librarian, member of the clergy, prosecutor, judge, or other	128
person having a proper interest in the material or performance.	129
(2) Mistake of age is not a defense to a charge under this	130
section.	131
(3) In a prosecution under this section, the trier of fact	132
may infer that a person in the material or performance involved	133
is a minor, <u>an artificially generated depiction of a minor,</u> or	134
impaired person if the material or performance, through its	135

title, text, visual representation, or otherwise, represents or 136
depicts the person as a minor, an artificially generated 137
depiction of a minor, or impaired person. 138

(C) Whoever violates this section is guilty of pandering 139
sexually oriented matter involving a minor, an artificially 140
generated depiction of a minor, or impaired person. If the 141
offense involves a minor or an artificially generated depiction 142
of a minor, a violation of division (A) (1), (2), (3), (4), (6), 143
or (7) of this section is a felony of the second degree. If the 144
offense involves an impaired person, a violation of division (A) 145
(1), (2), (3), (4), (6), or (7) of this section is a felony of 146
the third degree. Violation of division (A) (5) of this section 147
is a felony of the fourth degree. If the offender previously has 148
been convicted of or pleaded guilty to a violation of this 149
section or section 2907.321 or 2907.323 of the Revised Code, 150
pandering sexually oriented matter involving a minor, an 151
artificially generated depiction of a minor, or impaired person 152
in violation of division (A) (5) of this section is a felony of 153
the third degree. 154

Sec. 2907.323. (A) No person shall do any of the 155
following: 156

(1) Photograph any minor or impaired person who is not the 157
person's child or ward in a state of nudity, or create, direct, 158
produce, or transfer any material or performance that shows the 159
minor, an artificially generated depiction of the minor, or 160
impaired person in a state of nudity, unless both of the 161
following apply: 162

(a) The material or performance is, or is to be, sold, 163
disseminated, displayed, possessed, controlled, brought or 164
caused to be brought into this state, or presented for a bona 165

fide artistic, medical, scientific, educational, religious, 166
governmental, judicial, or other proper purpose, by or to a 167
physician, psychologist, sociologist, scientist, teacher, person 168
pursuing bona fide studies or research, librarian, member of the 169
clergy, prosecutor, judge, or other person having a proper 170
interest in the material or performance; 171

(b) The minor's or impaired person's parents, guardian, or 172
custodian consents in writing to the photographing of the minor 173
or impaired person, to the use of the minor, the artificially 174
generated depiction of the minor, or impaired person in the 175
material or performance, or to the transfer of the material and 176
to the specific manner in which the material or performance is 177
to be used. 178

(2) Consent to the photographing of the person's child or 179
ward who is a minor or impaired person, or photograph the 180
person's child or ward who is a minor or impaired person, in a 181
state of nudity or consent to the use of the person's child or 182
ward who is a minor, an artificially generated depiction of the 183
minor, or impaired person in a state of nudity in any material 184
or performance, or use or transfer a material or performance of 185
that nature, unless the material or performance is sold, 186
disseminated, displayed, possessed, controlled, brought or 187
caused to be brought into this state, or presented for a bona 188
fide artistic, medical, scientific, educational, religious, 189
governmental, judicial, or other proper purpose, by or to a 190
physician, psychologist, sociologist, scientist, teacher, person 191
pursuing bona fide studies or research, librarian, member of the 192
clergy, prosecutor, judge, or other person having a proper 193
interest in the material or performance; 194

(3) Possess or view any material or performance that shows 195

a minor, an artificially generated depiction of a minor, or 196
impaired person who is not the person's child or ward in a state 197
of nudity, unless one of the following applies: 198

(a) The material or performance is sold, disseminated, 199
displayed, possessed, controlled, brought or caused to be 200
brought into this state, or presented for a bona fide artistic, 201
medical, scientific, educational, religious, governmental, 202
judicial, or other proper purpose, by or to a physician, 203
psychologist, sociologist, scientist, teacher, person pursuing 204
bona fide studies or research, librarian, member of the clergy, 205
prosecutor, judge, or other person having a proper interest in 206
the material or performance. 207

(b) The person knows that the minor's or impaired person's 208
parents, guardian, or custodian has consented in writing to the 209
photographing or use of the minor, an artificially generated 210
depiction of the minor, or impaired person in a state of nudity 211
and to the manner in which the material or performance is used 212
or transferred. 213

(B) Whoever violates this section is guilty of illegal use 214
of a minor, an artificially generated depiction of a minor, or 215
impaired person in a nudity-oriented material or performance. If 216
the offense involves a minor or an artificially generated 217
depiction of a minor, whoever violates division (A)(1) or (2) of 218
this section is guilty of a felony of the second degree. If the 219
offense involves an impaired person, whoever violates division 220
(A)(1) or (2) of this section is guilty of a felony of the third 221
degree. Except as otherwise provided in this division, whoever 222
violates division (A)(3) of this section is guilty of a felony 223
of the fifth degree. If the offender previously has been 224
convicted of or pleaded guilty to a violation of this section or 225

section 2907.321 or 2907.322 of the Revised Code, illegal use of 226
a minor, an artificially generated depiction of a minor, or 227
impaired person in a nudity-oriented material or performance in 228
violation of division (A) (3) of this section is a felony of the 229
fourth degree. If the offender who commits a violation of 230
division (A) (1) or (2) of this section that involves a minor or 231
an artificially generated depiction of a minor also is convicted 232
of or pleads guilty to a specification as described in section 233
2941.1422 of the Revised Code that was included in the 234
indictment, count in the indictment, or information charging the 235
offense, the court shall sentence the offender to a mandatory 236
prison term as provided in division (B) (7) of section 2929.14 of 237
the Revised Code and shall order the offender to make 238
restitution as provided in division (B) (8) of section 2929.18 of 239
the Revised Code. 240

Section 2. That existing sections 2907.321, 2907.322, and 241
2907.323 of the Revised Code are hereby repealed. 242