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| S.B. 163
136th General Assembly	**Bill Analysis**

Version: As Introduced

Primary Sponsors: Sens. Blessing and Johnson

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SUMMARY

- Requires products generated by artificial intelligence to have a watermark.

- Prohibits simulated child pornography.

- Prohibits identity fraud using a replica of a person's persona.

DETAILED ANALYSIS

Artificial intelligence

The bill requires that artificial intelligence (AI) systems be programmed to provide a watermark on AI-generated products that informs the user that the product was generated by AI.[1] The bill also prohibits the removal of these watermarks for the purpose of concealing that the product was created using AI.[2] As defined by the bill, "**artificial intelligence**," means an engineered or machine-based system that, for explicit or implicit objectives, infers from the input it receives how to generate outputs that can influence physical or virtual environments.[3]

The bill provides that any person harmed by a violation of this requirement may bring a civil action against the violator for damages. In such an action regarding removal of the watermark, the person who removed the watermark is rebuttably presumed to have caused the harm alleged.[4] The Attorney General (AG) may also bring a civil action against violators for injunctive relief. If the violator removes an AI-generated watermark, the AG may seek a civil

[1] R.C. 1349.10(B).

[2] R.C. 1349.10(C).

[3] R.C. 1349.10(A).

[4] R.C. 1349.10(D).

penalty of up to $10,000. Civil penalties collected under this provision of the bill must be deposited into the Consumer Protection Enforcement Fund.[5]

Obscenity

The bill expands the offense of pandering obscenity involving a minor or impaired person. The bill makes it a felony in the third degree for a person to make or transmit any artificially generated depiction of a minor, and a felony in the fourth degree for a person to buy, procure, possess, or control any simulated obscene material.[6] The bill defines an "**artificially generated depiction**," as a visual depiction of an actual person that was created or edited by artificial intelligence or other computer-generated means and that a reasonable person would believe depicts or represents an actual person who is identifiable by the person's face, likeness, or other distinguishing characteristic.[7]

If challenged, a court might examine whether the criminalization of making and transmitting simulated obscene material could be found to run counter to the First Amendment. The U.S. Supreme Court struck down a similar law in 2002, finding the prohibition on simulated obscene material to be unconstitutionally overbroad.[8]

Identity fraud

The bill expands the offense of identify fraud to include the use of a replica of a person's persona for several different activities. "**Replica of a person's persona**" is defined as 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 AI.[9]

The bill prohibits any person from doing the following:

- Permitting another to use their persona with the intent to defraud.

- Using a persona in a manner that would induce another person to make a financial decision or extend credit in reliance on the persona without the express consent of the person whose persona is replicated.

- Using a persona with the intent to damage a person or entity's reputation, including the reputation of the person whose persona is being used.

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[5] R.C. 1349.10(E) and 1345.51.

[6] R.C. 2907.321(A) and (C).

[7] R.C. 2907.321, 2907.322, and R.C. 2907.323; R.C. 2907.323, not in the bill.

[8] *Ashcroft v. Free Speech Coalition*, 535 U.S. 234 (2002).

[9] R.C. 2913.49(A).

- Creating, using, or disseminating a persona in a state of nudity, engaged in sexual activity, or in any obscene material without the consent of the person whose persona is used.

- Using a persona for the purposes of violating child enticement or child obscenity laws.[10]

It is an affirmative defense to a charge of permitting another person to use a person's persona with the intent to defraud if the person using the persona is a law enforcement agent using the persona with the prior consent for a lawful purpose.[11]

Following continuing law, the degree of an identity fraud offense depends on the amount of money defrauded, whether the victim belonged to certain protected classes, and if other specified statutes were violated as part of the offending conduct. A person whose persona is unlawfully replicated may also bring a civil action against the violator.[12]

HISTORY

Action	Date
Introduced	04-01-25

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[10] R.C. 2913.49(D), (F), (G), (H), and (I), 2907.321, 2907.322, and 2907.323; R.C. 2905.05, not in the bill.

[11] R.C. 2913.49(J)(2).

[12] R.C. 2913.49(L), (M), and (N).