

2023 Regular Session

SENATE BILL NO. 175

BY SENATOR STINE

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CRIME/PUNISHMENT. Criminalizes deepfakes involving minors and defines the rights to digital image and likeness. (8/1/23)

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AN ACT

To enact R.S. 14:91.5.1, relative to offenses affecting the health and morals of minors; to create the crime of unlawful deepfakes involving minors; to provide for definitions; to provide penalties; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 14:91.5.1 is hereby enacted to read as follows:

§91.5.1. Unlawful deepfakes involving minors

A. Any person who, with knowledge that the material is a deepfake depicting a minor, knowingly creates or possesses material that depicts a minor engaging in sexual conduct shall be punished by imprisonment at hard labor for not less than five nor more than twenty years, or a fine of not more than ten thousand dollars, or both.

B. Any person who, with knowledge that the material is a deepfake depicting a minor, knowingly advertizes, distributes, exhibits, exchanges with, promotes, or sells any sexual material that depicts a minor engaging in sexual conduct shall be punished by imprisonment at hard labor for not less than ten nor more than fifty years, a fine of not more than fifty thousand dollars, or

1 **both.**

2 **C. For the purposes of this Section:**

3 **(1) "Deepfake" means any audio or visual media in an electronic format,**
4 **including any motion picture film or video recording, that is created or altered**
5 **in a manner that would falsely appear to a reasonable observer to be an**
6 **authentic record of the actual speech or conduct of the individual depicted in**
7 **the recording. "Deepfake" does not include any material that constitutes a work**
8 **of political, public interest, or newsworthy value, including commentary,**
9 **criticism, satire, or parody, or that includes content, context, or a clear**
10 **disclosure visible throughout the duration of the recording that would cause a**
11 **reasonable person to understand that the audio or visual media is not a record**
12 **of a real event.**

13 **(2) "Distribute" means to publish or make available to another person**
14 **but does not include any alteration of a recording, including altering the length**
15 **of the recording, so long as such alteration does not knowingly remove any**
16 **content, context, or clear disclosure visible throughout the duration of the**
17 **recording that would cause a reasonable person to believe that the audio or**
18 **visual media is not a record of a real event.**

19 **(3) "Minor" means a person under the age of eighteen years.**

20 **(4) "Sexual conduct" means any of the following, whether actual or**
21 **simulated: sexual intercourse, oral copulation, anal intercourse, anal oral**
22 **copulation, masturbation, bestiality, sexual sadism, sexual masochism,**
23 **penetration of the vagina or rectum by any object in a lewd or lascivious**
24 **manner, exhibition of the genitals or pubic or rectal area for the purpose of**
25 **sexual stimulation of the viewer, or excretory functions performed in a lewd or**
26 **lascivious manner, whether or not any of the conduct is performed alone or**
27 **between members of the same or opposite sex or between humans and animals.**
28 **An act is simulated when it gives the appearance of being actual sexual conduct.**

29 Section 2. If any provision or item of this Act, or the application thereof, is held

1 invalid, such invalidity shall not affect other provisions, items, or applications of the Act
 2 which can be given effect without the invalid provision, item, or application and to this end
 3 the provisions of this Act are hereby declared severable.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Whitney Kauffeld.

DIGEST

SB 175 Engrossed

2023 Regular Session

Stine

Proposed law creates the crime of "unlawful deepfakes involving minors", which is the creation or possession of any material that depicts a minor engaging in sexual conduct using deepfake technology, and will be penalized by imprisonment at hard labor for not less than five and not more than 20 years, a fine of not more than \$10,000, or both.

Proposed law further provides that "unlawful deepfakes involving minors" is the advertisement, distribution, exhibit, exchange, promotion, or sale of any sexually explicit material depicting a minor using deepfake technology and will be penalized by imprisonment at hard labor for not less than 10 and not more than 50 years, a fine of \$50,000, or both.

Proposed law defines "deepfake", "distribute", "minor", and "sexual conduct".

Proposed law provides for severability in the event one or more provisions of proposed law are found to be unconstitutional.

Effective August 1, 2023.

(Adds R.S. 14:91.5.1)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary C to the original bill

1. Delete proposed law relative to the crime of unlawful use of a digital image and likeness
2. Redefine conduct criminalized in "unlawful deepfakes involving minors"
3. Add definitions for "distribute" and "sexual conduct"