

CONFERENCE COMMITTEE REPORT

SB 175

2023 Regular Session

Stine

June 7, 2023

To the Honorable President and Members of the Senate and to the Honorable Speaker and Members of the House of Representatives.

Ladies and Gentlemen:

We, the conferees appointed to confer over the disagreement between the two houses concerning Senate Bill No. 175 by Senator Stine, recommend the following concerning the Engrossed bill:

1. That House Committee Amendment No. 1 proposed by the House Committee on Administration of Criminal Justice and adopted by the House of Representatives on May 25, 2023, be rejected.
2. That House Floor Amendments Nos. 1 through 6 proposed by Representative Marino and adopted by the House of Representatives on June 5, 2023, be rejected.
3. That the following amendment to the engrossed bill be adopted:

AMENDMENT NO. 1

On page 1, line 2, after "To enact" delete the remainder of the line and insert "R.S. 14:73.13, relative to computer related crime; to"

AMENDMENT NO. 2

On page 1, line 3, delete "involving minors"

AMENDMENT NO. 3

On page 1, line 6, change "R.S. 14:91.5.1" to "R.S. 14:73.13"

AMENDMENT NO. 4

On page 1, delete lines 7 through 17 and insert the following:

"§73.13. Unlawful deepfakes

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. At least five years of the sentence of imprisonment imposed shall be served without benefit of parole, probation or suspension of sentence.

B.(1) Except as provided in Paragraph (2) of this Subsection, any person who, with knowledge that the material is a deepfake that depicts another person, without consent of the person depicted, engaging in sexual conduct, knowingly advertises, distributes, exhibits, exchanges with, promotes, or sells any sexual material shall be punished by imprisonment at hard labor for not less than ten nor more than thirty years, a fine of not more than fifty thousand dollars, or both.

(2) Any person who, with knowledge that the material is a deepfake depicting a minor, knowingly advertises, 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 thirty years, a fine of not more than fifty thousand dollars, or both. At least ten years of the sentence of imprisonment imposed shall be served without benefit of probation, parole, or suspension of sentence."

AMENDMENT NO. 5

On page 2, delete line 1

AMENDMENT NO. 6

On page 2, delete lines 4 through 6, and insert "**including any motion picture film or video recording, that is created, altered, or digitally manipulated in a manner that would falsely appear to a reasonable observer to be an authentic record of the actual speech or conduct of the individual or replace an individual's likeness with another individual an depicted in"**

Respectfully submitted,

Senators:

Representatives:

Senator Jeremy Stine

Representative Joseph A. Marino, III

Senator Franklin J. Foil

Representative Vanessa Caston LaFleur

Senator Caleb Kleinpeter

Representative Debbie Villio

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

CONFERENCE COMMITTEE REPORT DIGEST

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Keyword and summary of the bill as proposed by the Conference Committee

CRIME/PUNISHMENT. Criminalizes certain deepfakes depicting sexual conduct (8/1/23)

Report rejects House amendments which would have:

1. Changed penalty for offense when person depicted is an minor.
2. Provided for penalty when the offense depicts a person as an adult.
3. Clarified definition of "deepfake".
4. Made technical changes.

Report amends the bill to:

1. Change penalty for offense when person depicted is an minor.
2. Provide for penalty when the offense depicts a person as an adult.
3. Clarify definition of "deepfake".
4. Provide for exception when the adult depicted gives consent.
5. Make technical changes.

Digest of the bill as proposed by the Conference Committee

Proposed law creates the crime of "unlawful deepfakes", which is the creation or possession of any material that depicts a minor engaging in sexual conduct using deepfake technology. Proposed law further provides has a penalty of imprisonment at hard labor for not less than five and not more than 20 years, of which at least five years will be served without benefit of probation, parole or suspension of sentence, a fine of not more than \$10,000, or both.

Proposed law further provides that "unlawful deepfakes" is the advertisement, distribution, exhibit, exchange, promotion, or sale of any sexually explicit material depicting a person without his consent using deepfake technology. Proposed law further provides a penalty of imprisonment at hard labor for not less than 10 and not more than 30 years, a fine of \$50,000, or both. Proposed law further provides that when the content depicts a minor, the defendant must serve at least 10 years of the sentence imposed without benefit of probation, parole, or suspension of sentence.

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. 14:73.13)