Withdrawn

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 576

AMENDMENT NO. A2
(to be filled in by Principal Clerk)

H576-ABP-23 [v.2]

Amends Title [YES]
Second Edition

Date _____,2025

Senator Grafstein

moves to amend the bill on page 1, line 3, by rewriting the line to read:

"LAWS PERTAINING TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES; AND TO PREVENT THE SEXUAL EXPLOITATION OF WOMEN AND MINORS."

And on page 17, lines 28-30, by rewriting the lines to read:

"**PART VII. PREVENT THE SEXUAL EXPLOITATION OF WOMEN AND MINORS**

SECTION 7.1.(a) Chapter 66 of the General Statutes is amended by adding a new Article to read:

"Article 51A.

"Prevent Sexual Exploitation of Women and Minors.

"**§ 66-505. Short title; definitions.**

(a) This Article shall be known and may be cited as the "Prevent Sexual Exploitation of Women and Minors Act."

(b) The following definitions apply in this Article:

(1) Authorized representative. – With respect to an individual:

a. A person authorized in writing under State or other applicable law by the individual to act on behalf of the individual with regard to the matter in question; or

b. In the case of an individual under the age of 18, a parent or legal guardian of the individual.

(2) Coerced consent. – Purported consent obtained from a person lacking the capacity to consent or obtained from a person with capacity to consent under any of the following circumstances:

a. Through fraud, duress, misrepresentation, undue influence, or nondisclosure.

b. Through exploiting or leveraging the person's (i) immigration status, (ii) pregnancy, (iii) disability, (iv) substance abuse disorder, (v) juvenile status, or (vi) economic circumstances.

(3) Consent. – An agreement that is informed and thorough and does not include coerced consent.

(4) Distribute. – As defined in G.S. 66-500.

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(5) Eligible person. – An individual depicted in the pornographic image who has not provided consent, or who has withdrawn consent in compliance with the laws applicable to the jurisdiction, for the distribution of the pornographic image, or an authorized representative of that individual.

(6) Intimate visual depiction. – Any visual depiction of an individual meeting all of the following criteria:

a. The individual is reasonably identifiable from the visual depiction itself or information displayed in connection with the visual depiction, including through (i) facial recognition, (ii) an identifying marking on the individual, including a birthmark, piercing, or tattoo, (iii) an identifying feature of the background of the visual depiction, (iv) voice matching, or (v) written confirmation from an individual who is responsible, in whole or in part, for the creation or development of the visual depiction.

b. The individual depicted is engaging in sexual activity or the exposed or substantially exposed genitals, anus, pubic area, or post-pubescent female nipple of the individual depicted is visible.

(7) Online entity. – An individual or group of individuals working together or an entity defined in G.S. 66-500.

(8) Online entity operator. – A provider for an online entity.

(9) Performer. – Any person portrayed in a visual depiction engaging in, or assisting another person to engage in, sexual activity.

(10) Pornographic image. – A visual depiction of actual or feigned sexual activity or an intimate visual depiction.

(11) Publish. – As defined in G.S. 66-500.

(12) Sexual activity. – As defined in G.S. 14-190.13.

(13) Visual depiction. – Any photograph, film, video, picture, digital image, or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means.

"**§ 66-506. Age verification obligations.**

(a) An online entity operator may not publish or allow a user to publish a pornographic image to the online entity unless the operator has verified that all of the following criteria are met for each individual appearing in the pornographic image:

(1) The individual was not less than 18 years of age when the pornographic image was created.

(2) The individual has provided explicit written evidence of consent for each act of sexual activity in which the individual engaged during the creation of the pornographic image.

(3) The individual has provided explicit written consent for the distribution of the specific pornographic image.

(b) Separate consent is required for the act of sexual activity and for distribution of the intimate visual depiction, as follows:

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(1) Consent for sex act. – Consent described in subdivision (2) of subsection (a) of this section does not imply or constitute evidence of consent described in subdivision (3) of that subsection.

(2) Consent for distribution of image. – Consent described in subdivision (3) of subsection (a) of this section does not imply or constitute evidence of consent described in subdivision (2) of that subsection.

(c) To carry out the obligations of subsection (a) of this section, an online entity operator shall obtain all of the following from the user or entity seeking to publish the pornographic image or through other means:

(1) Written consent from each individual appearing in the pornographic image that includes:

a. The name, date of birth, and signature of the individual.

b. A statement that the individual is not less than 18 years of age, unless no reasonable person could conclude that the individual is less than 30 years of age.

c. A statement that the consent is for distribution of the specific pornographic image.

d. A statement that explains coerced consent and that the individual has the right to withdraw the individual's consent at any time.

(2) Not less than one form of valid identification for each individual appearing in the pornographic image (i) issued by an agency of the federal government or of a state, local, or foreign government; and (ii) containing the name, date of birth, signature, and photograph of the individual; and on which the name, date of birth, and signature of the individual match the name, date of birth, and signature of the individual on the consent form required under subsection (a) of this section.

"**§ 66-507. Removal of images.**

(a) An online entity operator shall establish a procedure for removing a pornographic image from the online entity at the request of a person and designate one or more employees of the operator to be responsible for handling requests for removal of pornographic images.

(b) An online entity operator shall display a prominently visible notice on the website or mobile application of the online entity that provides instructions on how a person can request the removal of a pornographic image.

(c) If an online entity operator receives a request from an eligible person or a law enforcement officer acting pursuant to a valid court order, through any request mechanism offered by the operator under subsection (b) of this section, to remove a pornographic image that is being hosted by the online entity without the consent of an individual who appears in the pornographic image, the operator shall remove the pornographic image as quickly as possible, and in any event not later than 72 hours after receiving the request.

(d) If an online entity operator receives a request from a person other than an eligible person or law enforcement officer acting pursuant to a court order, through any request mechanism offered by the operator under subsection (b) of this section, to remove a pornographic image that is being hosted by the online entity without the consent of an individual who appears

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in the pornographic image, then not later than 72 hours after receiving the request, the operator shall do the following:

(1) Review the records of the operator with respect to the pornographic image to determine whether the pornographic image was published to the platform in accordance with the verification requirements of G.S. 66-506; and

(2) Remove the pornographic image if the operator determines that the pornographic image was not published to the platform in accordance with the verification requirements of G.S. 66-506.

(e) An online entity operator shall remove a pornographic image temporarily if any question arises as to the consent of a performer. This requirement is in addition to the requirements of subsections (c) and (d) of this section.

(f) At the request of a performer, a pornographic image distributed or published by an online entity operator must be removed within 72 hours of the request being made, regardless of the age or consent of the performer.

(g) In the case of a pornographic image that has been removed from an online entity in accordance with this section, the online entity operator shall block the pornographic image, and any altered or edited version of the pornographic image, from being distributed on or published to the online entity again.

"**§ 66-508. Obligations of users.**

(a) A user of an online entity may not distribute or publish a pornographic image of an individual to the online entity without the consent of the individual.

(b) For purposes of subsection (a) of this section, whether an individual has provided consent to the publishing of a pornographic image shall be determined in accordance with this Article.

"**§ 66-509. Enforcement.**

(a) Violations of this Article are subject to the imposition of civil penalties. In determining the amount of the penalty, the Attorney General shall consider the degree and extent of harm caused by the violation. A civil penalty under this Article shall accrue on a per day and per image basis. The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(b) The Attorney General may impose a civil penalty on any online entity operator that violates this Article in an amount of not more than ten thousand dollars ($10,000) for each day during which a pornographic image remains on the online entity, beginning 24 hours after the Attorney General provides notice of the violation to the operator.

(c) The Attorney General may impose a civil penalty on any online entity operator that violates G.S. 66-507(b) in an amount of not more than ten thousand dollars ($10,000) for each day during which the online entity remains in violation, beginning 24 hours after the Attorney General provides notice of the violation to the operator.

(d) The Attorney General may impose a civil penalty on any online entity operator that violates G.S. 66-507(c) in an amount of not more than five thousand dollars ($5,000) for each day during which the online entity remains in violation of that subsection, beginning 24 hours after the Attorney General provides notice of the violation to the operator.

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(e) An online entity operator shall not be liable for a violation of this Article if, in allowing the publishing of a pornographic image to the online entity, the operator reasonably relied on verification materials that were later found to be in violation of this Article, provided that the operator removes the pornographic image not later than 24 hours after receiving notice that the verification materials are in violation of this Article.

(f) If an online entity operator fails to remove a pornographic image within 24 hours of receiving notice that the verification materials are in violation of this Article, damages shall be calculated with respect to each day on or after the date on which that 24-hour period expires.

(g) If an online entity operator violates this Article with respect to a pornographic image, any eligible person may bring a civil action against the online entity operator for damages in an amount equal to (i) ten thousand dollars ($10,000) for each day during which a pornographic image remains on the online entity in violation of this Article, calculated on a per day and per image basis, or (ii) actual damages, whichever is greater. A prevailing eligible person shall be awarded attorneys' fees.

(h) If a user of an online entity violates this Article with respect to a pornographic image, any eligible person may bring a civil action against the user for damages in an amount equal to (i) ten thousand dollars ($10,000) for each day during which the pornographic image remains on the online entity in violation of this Article, calculated on a per day and per image basis or (ii) actual damages, whichever is greater. A prevailing eligible person shall be awarded attorneys' fees.

"**§ 66-510. Severability.**

If any provision of this Article is held invalid or unenforceable, the invalidity or unenforceability shall not affect other provisions or applications of this Article that can be given effect without the invalid or unenforceable provision or application and, to this end, the provisions of this Article are severable."

SECTION 7.1.(b) This section becomes effective December 1, 2025, and applies to acts or omissions occurring before, on, or after that date.

PART VIII. EFFECTIVE DATE

SECTION 8.1 Except as otherwise provided, this act is effective when it becomes law.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____