



House Judiciary Reported Substitute for HB347

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A BILL
TO BE ENTITLED
AN ACT

Relating to consumer protection; to amend Section 13A-6-240, Code of Alabama 1975, to further provide for certain affirmative defenses; to create certain private rights of action related to the production or disclosure of, or the facilitation of or payment for, illicit material; to require certain consumer recourse; and to provide for enforcement and penalties for violations.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 13A-6-240, Code of Alabama 1975, is amended to read as follows:

"§13A-6-240

(a) (1) A person commits the crime of distributing a private image if he or she knowingly posts, emails, texts, transmits, or otherwise distributes a private image when the depicted individual has not consented in writing to the transmission and the depicted individual had a reasonable expectation of privacy against transmission of the private image.

(2) A person commits the crime of creating a private image if he or she knowingly creates, records, or alters a



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29 private image when the depicted individual has not consented
30 to the creation, recording, or alteration and the depicted
31 individual had a reasonable expectation of privacy against the
32 creation, recording, or alteration of the private image.

33 (b) (1) For purposes of this section, "private image"
34 means a photograph, digital image, video, film, or other
35 recording of an individual who is identifiable from the
36 recording itself or from the circumstances of its transmission
37 and who is engaged in any act of sexually explicit conduct, as
38 defined in Section 13A-12-190.

39 (2) The term includes both of the following:

40 a. A recording that has been edited, altered, or
41 otherwise manipulated from its original form.

42 b. A recording that a reasonable person would believe
43 actually depicts an identifiable individual, regardless of
44 whether any portion of the recording depicts another
45 individual or is artificially generated.

46 (c) (1) For purposes of this section, a "reasonable
47 expectation of privacy" includes, but is not limited to,
48 either of the following circumstances:

49 a. The individual depicted in the private image created
50 it or consented to its creation believing that it would remain
51 confidential.

52 b. The sexual conduct depicted in the image was
53 involuntary.

54 (2) There is no reasonable expectation of privacy
55 against the transmission of a private image made voluntarily
56 in a public setting or made with prior written consent in a



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57 commercial setting.

58 (d) It is a defense to distributing a private image if
59 the distribution of the private image was made in the public
60 interest, including, but not limited to, the reporting of
61 unlawful conduct; the lawful and common practices of law
62 enforcement, legal proceedings, or medical treatment; or a
63 bona fide attempt to prevent further distribution of the
64 private image.

65 (e) The crimes of distributing a private image and
66 creating a private image shall be considered to be committed
67 in any county in which any part of the crime took place, in
68 the county of residence of the victim or defendant, or any
69 county where the image is received.

70 (f) A violation of this section is a Class A
71 misdemeanor. A subsequent adjudication or conviction under
72 this section is a Class C felony.

73 (g) If the Attorney General has reason to believe a
74 person has engaged in, or is engaging in, a violation of this
75 section, the Attorney General may petition for an emergency
76 injunction or other necessary relief to enjoin the violation,
77 and may order the person to provide a copy of the written
78 consent required by this section.

79 (h) No Internet service provider, search engine, cloud
80 service provider, or affiliate or subsidiary of any of the
81 same, shall be held to have violated this section solely for
82 providing access or connection to or from a website, other
83 information or content on the Internet, or a facility, system,
84 or network not under the control of the provider, including,



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85 but not limited to, the transmission, download, intermediate
86 storage, or access software of content that is a private image
87 or is child sexual abuse material to the extent the provider
88 is not responsible for the creation of the content of the
89 communication that constitutes the private image or child
90 sexual abuse material.

91 (i) (1) No developer or provider of technology shall be
92 held to have violated this section solely for providing or
93 developing ~~technology used by another person to violate this~~
94 ~~section~~ a neutral, general purpose tool that has substantial
95 lawful uses and is not designed, marketed, or promoted for the
96 creation of a private image.

97 (2) Subdivision (1) shall not apply to any developer or
98 provider of technology that unreasonably designs, markets,
99 advertises, promotes, configures, or operates a product or
100 service in a manner that facilitates, enables, or encourages
101 the creation, alteration, or generation of a private image,
102 including by doing any of the following:

103 a. Promoting the product or tool to generate sexually
104 explicit, nude, or sexualized images of an identifiable
105 individual.

106 b. Providing prompts, tutorials, demonstrations, or
107 examples instructing users on the process to create a private
108 image.

109 c. Training, fine tuning, or configuring a system
110 primarily for the general of sexually explicit or
111 nonconsensual sexualized imagery of an identifiable
112 individual.



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113 d. Making a material contribution, as defined in
114 Section 2 of the act amending this section, to the production,
115 alteration, or dissemination of a private image.

116 (3) A developer or provider described in subdivision
117 (2) shall be deemed responsible for the creation or
118 facilitation of a private image.

119 (4) Nothing in this subsection shall be construed to
120 limit liability where a developer or provider profits from the
121 production or dissemination of a private image."

122 Section 2. (a) For the purposes of this section, the
123 following terms have the following meanings:

124 (1) CHILD SEXUAL ABUSE MATERIAL. As defined in Section
125 13A-12-190, Code of Alabama 1975.

126 (2) ILLICIT MATERIAL. Any private image or child sexual
127 abuse material.

128 (3) MATERIAL CONTRIBUTION. Any action that meaningfully
129 assists, enables, accelerates, optimizes, or encourages the
130 production of illicit material.

131 (4) NUDIFICATION APPLICATION. A system, model, or
132 software designed, marketed, or used to remove clothing,
133 simulate nudity, or generate sexualized imagery of an
134 identifiable individual.

135 (5) PRIVATE IMAGE. As defined in Section 13A-6-240,
136 Code of Alabama 1975.

137 (6) VIOLATOR. Any of the following:

138 a. A person who owns an Internet website or
139 application, including a social media platform, and recklessly
140 facilitates the production or disclosure of illicit material



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141 in exchange for payment.

142 b. A person who owns a publicly accessible nudification
143 application from which illicit material is produced.

144 c. A person who recklessly processes or facilitates
145 payment for the production or disclosure of illicit material
146 through a website or application.

147 (b) A violator shall be liable to an individual
148 depicted in illicit material for damages arising from the
149 production or disclosure of the illicit material if the
150 violator unreasonably disregards that the depicted individual
151 did not consent to the production or disclosure of the illicit
152 material.

153 (c) A notification or request for removal of illicit
154 material submitted pursuant to this section shall include all
155 of the following in writing:

156 (1) The physical or electronic signature of the
157 identifiable individual depicted in the illicit material, or
158 an authorized agent of the individual.

159 (2) The specific illicit material and information
160 reasonably sufficient to allow the violator to locate and
161 remove the illicit material.

162 (3) A brief statement indicating that the identifiable
163 individual has a good faith belief that the illicit material
164 is not consensual, including any relevant information that
165 would allow the violator to determine whether the material was
166 published without the individual's consent.

167 (4) Information sufficient to enable the violator to
168 contact the identifiable individual, or an authorized agent of



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169 the individual.

170 (d) A violator shall be liable to an individual
171 depicted in illicit material for damages arising from the
172 production or disclosure of the illicit material if the
173 individual depicted requests the removal of the illicit
174 material and the violator hosting the illicit material fails
175 to both: (i) remove the illicit material within 72 hours of
176 receiving the request; and (ii) make reasonable efforts to
177 identify and remove any known identical copies of the illicit
178 material.

179 (e) A person who owns an Internet website or
180 application that facilitates, enables, or encourages the
181 creation, alteration, or generation of illicit material,
182 including a social media platform, shall make both of the
183 following available on the website or application:

184 (1) An easily accessible system that allows an
185 individual to submit a request for the removal of illicit
186 material.

187 (2) A clear and conspicuous notice, which may be
188 provided through a clear and conspicuous link to another web
189 page or disclosure, of the removal process established under
190 this subsection that meets both of the following criteria:

191 a. Is written in plain language that is easily read.

192 b. Provides information regarding the responsibilities
193 of the person who owns the website or application under this
194 section, including a description of how an individual can
195 submit a request for the removal of illicit material and how
196 to track the status of a request.



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197 (f) A violation of this section is a deceptive trade
198 practice actionable under Chapter 19 of Title 8 of the Code of
199 Alabama 1975. If the Attorney General has reason to believe
200 that an entity is in violation of this act, the Attorney
201 General may bring an action against the entity for an unfair
202 or deceptive trade practice. In addition to other remedies
203 available under Chapter 19 of Title 8 of the Code of Alabama
204 1975, the Attorney General may collect a civil penalty of up
205 to seven thousand five hundred dollars (\$7,500) per violation,
206 reasonable attorney fees, and court costs.

207 (g) If a violation described in subsection (f) is part
208 of a consistent pattern of knowing or reckless conduct, the
209 Attorney General may seek punitive damages against the entity.

210 (h) An action for a claim under this section must be
211 brought within one year from the date the Attorney General
212 knew or reasonably should have known of the alleged violation.

213 (i) The existence or nonexistence of an enforcement
214 action by the Attorney General pursuant to this section shall
215 not bar, delay, or diminish any private right of action.

216 Section 3. This act shall become effective on October
217 1, 2026.