

SECOND REGULAR SESSION
[PERFECTED WITH PERFECTING AMENDMENT]
HOUSE COMMITTEE SUBSTITUTE FOR
**HOUSE BILL NOS. 1887, 2361, 1913,
2862 & 2321**
103RD GENERAL ASSEMBLY

5399H.03D

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 573.010 and 573.550, RSMo, and to enact in lieu thereof seven new sections relating to the protection of certain individuals affected by digital media, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 573.010 and 573.550, RSMo, are repealed and seven new
2 sections enacted in lieu thereof, to be known as sections 407.3007, 407.3475, 537.039,
3 537.043, 573.010, 573.550, and 573.570, to read as follows:

407.3007. 1. As used in this section, the following terms mean:

2 **(1) "Artificial intelligence" or "AI":**

3 **(a) Any artificial system that performs tasks under varying and unpredictable**
4 **circumstances without significant human oversight or that can learn from experience**
5 **and improve performance when exposed to data sets;**

6 **(b) An artificial system developed in computer software, physical hardware, or**
7 **other computer systems that solves tasks requiring human-like perception, cognition,**
8 **planning, learning, communication, or physical action;**

9 **(c) An artificial system designed to think or act like a human, including cognitive**
10 **architectures and neural networks;**

11 **(d) A set of techniques, including machine learning, that is designed to**
12 **approximate a cognitive task; or**

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

13 (e) An artificial system designed to act rationally, including an intelligent
14 software agent or embodied robot that achieves goals using perception, planning,
15 reasoning, learning, communicating, decision-making, and acting;

16 (2) "Mental health professional", the same as defined in section 632.005. The
17 term "mental health professional" shall also include any person licensed in a profession
18 regulated under chapter 337.

19 2. Any person or entity that develops or deploys artificial intelligence in the state
20 shall not advertise or represent to the public that the AI is or is able to act as a mental
21 health professional or is capable of providing therapy services, psychotherapy services,
22 or a mental health diagnosis.

23 3. Any violation of this section shall be considered an unlawful practice under
24 the Missouri merchandising practices act under this chapter.

25 4. The attorney general shall enforce the provisions of this section. Any
26 individual may report violations of this section to the attorney general. If the attorney
27 general finds that a violation occurred, the attorney general shall commence a civil
28 action in a court of competent jurisdiction. If the court finds that a violation occurred,
29 the court may grant damages, civil penalties, injunctive relief, attorney's fees, and any
30 such other relief the court finds appropriate. Notwithstanding section 407.100 to the
31 contrary, civil penalties shall be as follows:

32 (1) Ten thousand dollars for the first violation; or

33 (2) Twenty thousand dollars for any subsequent violation.

407.3475. 1. The provisions of this section shall be known and may be referred
2 to as the "Megan Meier Act".

3 2. For purposes of this section, the following terms mean:

4 (1) "Account holder", a natural person who creates, maintains, or accesses an
5 account on a social media platform;

6 (2) "Age verification", a commercially reasonable method of confirming the age
7 of an account applicant consistent with industry standards and privacy protections;

8 (3) "Minor", a person under eighteen years of age;

9 (4) "Social media platform", an online service that allows users to create
10 accounts, create or view user-generated content, interact socially, and use
11 algorithmically curated feeds. The term "social media platform" does not include:

12 (a) Services primarily used for email, direct messaging, or business
13 collaboration;

14 (b) Educational platforms used by schools;

15 (c) Online video gaming services with integrated chat where social interaction is
16 incidental; and

17 (d) Internet service providers;

18 (5) "Verified parent or guardian", a person with legal custody of a minor,
19 verified through the procedures required under this section.

20 3. No social media platform shall permit a person under sixteen years of age to
21 create or maintain an account separate from a parent or guardian.

22 4. A minor sixteen years of age or older may hold an account only with the
23 verified consent of a parent or legal guardian.

24 5. Social media platforms may allow account creation but shall provide parents
25 or guardians the ability to:

26 (1) Access and review account activity;

27 (2) Request deletion of the minor's account; and

28 (3) Limit messaging features between the minor and unverified adult accounts.

29 6. A social media platform shall implement a secure age-verification process for
30 all Missouri users prior to account creation.

31 7. Age-verification data shall not be retained by the social media platform
32 beyond what is strictly necessary for compliance with the provisions of this section.

33 8. Social media platforms shall use age-verification techniques that:

34 (1) Protect user privacy; and

35 (2) Are independently certifiable as compliant with standards for data
36 minimization and security.

37 9. A social media platform shall immediately terminate any account determined
38 to belong to a person under sixteen years of age.

39 10. A verified parent or guardian may request deletion of a minor's account and
40 the social media platform shall comply within ten business days of such request. Social
41 media platforms shall provide a simple, accessible process for parents or guardians to
42 make such requests.

43 11. A social media platform shall not:

44 (1) Use addictive or manipulative design features specifically targeting minors,
45 including infinite-scroll mechanisms or auto-playing content without time-limit
46 controls;

47 (2) Permit direct messaging from adults to minors unless the adult is a verified
48 contact who is verified by a parent or guardian; or

49 (3) Serve any paid advertising, sponsored content, or commercial promotion to
50 any minor under sixteen years of age who holds an account under this section.

537.039. 1. As used in this section, the following terms mean:

2 (1) "Artificial intelligence", an engineered or machine-based system that varies
3 in its level of autonomy and that can, for explicit or implicit objectives, infer from the

4 input it receives how to generate outputs that can influence physical or virtual
5 environments;

6 (2) "Explicit sexual material", any pictorial or three-dimensional material
7 depicting human masturbation, deviate sexual intercourse, sexual intercourse, direct
8 physical stimulation or unclothed genitals, sadomasochistic abuse, or emphasizing the
9 depiction of postpubertal human genitals. The term "explicit sexual material" shall not
10 include works of art or of anthropological significance.

11 2. No person or entity shall:

12 (1) Replicate or alter through the use of artificial intelligence an image or voice
13 of an individual to generate explicit sexual material; or

14 (2) Use the likeness of an individual through the use of artificial intelligence for
15 explicit sexual material

16

17 unless the person or entity has the individual's express written consent.

18 3. Any individual injured by a person or entity for a violation of subsection 2 of
19 this section may bring a cause of action against the person or entity to recover actual
20 damages as a result of the violation. Such individual shall also be entitled to recover
21 attorney's fees and costs.

537.043. 1. As used in this section, the following terms mean:

2 (1) "Consent", a freely given agreement to the disclosure of an intimate digital
3 depiction as provided by subsection 4 of this section. Assent does not constitute consent
4 if:

5 (a) It is given by a depicted individual who lacks the mental capacity to authorize
6 the disclosure of an intimate digital depiction and such mental incapacity is manifest or
7 known to a person who discloses the intimate digital depiction;

8 (b) It is given by a depicted individual who by reason of youth, mental disease or
9 defect, intoxication, a drug-induced state, or any other reason is manifestly unable, or
10 known by the person who discloses an intimate digital depiction to be unable, to make a
11 reasonable judgment as to the nature or harmfulness of the disclosure of an intimate
12 digital depiction; or

13 (c) It is induced by force, duress, or deception;

14 (2) "Depicted individual", an individual who, as a result of digitization or by
15 means of digital manipulation, appears in whole or in part in a digital depiction and who
16 is identifiable by virtue of the individual's face, likeness, or other distinguishing
17 characteristic, such as a unique birthmark or other recognizable feature, or from
18 information displayed in connection with the digital depiction;

19 (3) "Digital depiction", a realistic visual depiction of an individual that has been
20 created or altered using digital manipulation;

21 (4) "Information content providers", any person or entity that is responsible, in
22 whole or in part, for the creation or development of information provided through the
23 internet or any other interactive computer service;

24 (5) "Interactive computer service", any information service, system, or access
25 software provider that provides or enables computer access by multiple users to a
26 computer server, including specifically a service or system that provides access to the
27 internet and such systems operated or services offered by libraries or educational
28 institutions;

29 (6) "Intimate digital depiction", a digital depiction of an individual that has been
30 created or altered using digital manipulation and that depicts:

31 (a) The uncovered genitals, pubic area, anus, or postpubescent female nipple of
32 the individual;

33 (b) The display or transfer of bodily sexual fluids:

34 a. Onto any part of the body of the individual; or

35 b. From the body of the individual; or

36 (c) The individual engaging in sexually explicit conduct;

37 (7) "Sexually explicit conduct", actual or simulated:

38 (a) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or
39 oral-anal, whether between individuals of the same or opposite sex;

40 (b) Bestiality;

41 (c) Masturbation;

42 (d) Sadistic or masochistic abuse; or

43 (e) Lascivious exhibition of the genitals or pubic area of any individual.

44 2. Except as provided in subsection 8 or 11 of this section, a depicted individual
45 who is under eighteen years of age and is the subject of a digital depiction or a depicted
46 individual who is the subject of an intimate digital depiction that is disclosed without the
47 consent of the depicted individual where such disclosure was made by a person who
48 knows, or recklessly disregards, that the depicted individual has not consented to such
49 disclosure may bring a civil action against that other person in an appropriate circuit
50 court for relief as set forth in subsections 5 and 6 of this section.

51 3. In the case of a depicted individual who is under eighteen years of age or is
52 incompetent, incapacitated, or deceased, the legal guardian of the depicted individual or
53 representative of the depicted individual's estate, another family member, or any person
54 appointed as suitable by the court may assume the depicted individual's rights under

55 **this section, but in no event shall a defendant be named as such representative or**
56 **guardian of the depicted individual.**

57 **4. For the purposes of an action brought pursuant to subsection 2 or 3 of this**
58 **section:**

59 **(1) A depicted individual's consent to the creation of the digital depiction shall**
60 **not establish that the depicted individual consented to the disclosure of the digital**
61 **depiction;**

62 **(2) Consent of disclosure of an intimate digital depiction shall be deemed validly**
63 **given only if:**

64 **(a) It is set forth in an agreement written in plain language, signed knowingly**
65 **and voluntarily by the depicted individual; and**

66 **(b) The written agreement includes a general description of the intimate digital**
67 **depiction and, if applicable, the audiovisual work into which the intimate digital**
68 **depiction will be incorporated.**

69 **5. In a civil action brought pursuant to this section, a depicted individual may**
70 **recover any of the following:**

71 **(1) An amount equal to the monetary gain made by the defendant from the**
72 **creation, development, or disclosure of the digital depiction;**

73 **(2) Either of the following:**

74 **(a) The actual damages sustained by the depicted individual as a result of the**
75 **digital depiction, including damages for emotional distress; or**

76 **(b) Liquidated damages in the amount of one hundred fifty thousand dollars;**

77 **(3) Punitive damages; and**

78 **(4) The cost of the action, including reasonable attorney's fees and court costs.**

79 **6. In a civil action brought pursuant to this section, the court may, in addition to**
80 **any other relief available at law, order equitable relief, including a temporary**
81 **restraining order, a preliminary injunction, or a permanent injunction ordering the**
82 **defendant to cease the display or disclosure of the digital depiction.**

83 **7. In ordering relief pursuant to this section, the court may grant injunctive**
84 **relief maintaining the confidentiality of a plaintiff by using a pseudonym.**

85 **8. A depicted individual shall not bring an action for relief under this section if:**

86 **(1) The disclosure was made in good faith:**

87 **(a) To or by a law enforcement officer or agency in the course of reporting or**
88 **investigating unlawful conduct; or**

89 **(b) As part of a legal proceeding;**

90 (2) The disclosure was a matter of legitimate public concern or public interest,
91 except that the disclosure shall not be considered a matter of legitimate public interest
92 or public concern solely because the depicted individual is a public figure; or

93 (3) The disclosure reasonably intended to assist the depicted individual.

94 9. A court may authorize an in camera proceeding under this section.

95 10. It shall not be a defense to an action under this section that there is a
96 disclaimer stating that the digital depiction was unauthorized or that the depicted
97 individual did not participate in the creation or development of the digital depiction.

98 11. A provider of an interactive computer service shall not be held liable in an
99 action brought pursuant to this section for:

100 (1) Any action voluntarily taken in good faith to restrict access to or availability
101 of digital depictions; or

102 (2) Any action taken to enable or make available to information content
103 providers or other persons the technical means to restrict access to digital depictions.

104 12. A civil action may be brought against a parent or legal guardian who
105 discloses an intimate digital depiction of his or her child. As used in this subsection, the
106 term "child" means a person under eighteen years of age.

573.010. As used in this chapter the following terms shall mean:

2 (1) "Adult cabaret", a nightclub, bar, juice bar, restaurant, bottle club, or other
3 commercial establishment, regardless of whether alcoholic beverages are served, which
4 regularly features persons who appear semi-nude;

5 (2) "Artificially generated visual depiction", includes depictions that are obscene
6 and indistinguishable from a real minor, morphed from a real minor's image, or
7 generated without any actual minor involvement;

8 (3) "Characterized by", describing the essential character or dominant theme of an
9 item;

10 [~~3~~] (4) "Child", any person under the age of fourteen;

11 [~~4~~] (5) "Child pornography":

12 (a) Any obscene material or performance depicting sexual conduct, sexual contact as
13 defined in section 566.010, or a sexual performance and which has as one of its participants or
14 portrays as an observer of such conduct, contact, or performance a minor; or

15 (b) Any visual depiction or artificially generated visual depiction, including any
16 photograph, film, video, picture, or computer or computer-generated image or picture,
17 whether made or produced by electronic, mechanical, or other means, of sexually explicit
18 conduct where:

19 a. The production of such visual depiction or artificially generated visual depiction
20 involves the use of a minor engaging in sexually explicit conduct;

21 b. Such visual depiction **or artificially generated visual depiction** is a digital image,
22 computer image, or computer-generated image that is, or is indistinguishable from, that of a
23 minor engaging in sexually explicit conduct, in that the depiction is such that an ordinary
24 person viewing the depiction would conclude that the depiction is of an actual minor engaged
25 in sexually explicit conduct; or

26 c. Such visual depiction **or artificially generated visual depiction** has been created,
27 adapted, or modified to show that an identifiable minor is engaging in sexually explicit
28 conduct. "Identifiable minor" means a person who was a minor at the time the visual
29 depiction **or artificially generated visual depiction** was created, adapted, or modified; or
30 whose image as a minor was used in creating, adapting, or modifying the visual depiction **or**
31 **artificially generated visual depiction**; and who is recognizable as an actual person by the
32 person's face, likeness, or other distinguishing characteristic, such as a unique birthmark or
33 other recognizable feature. The term identifiable minor shall not be construed to require
34 proof of the actual identity of the identifiable minor;

35 ~~[(5)]~~ (6) "Employ", "employee", or "employment", any person who performs any
36 service on the premises of a sexually oriented business, on a full-time, part-time, or contract
37 basis, whether or not the person is denominated an employee, independent contractor, agent,
38 or otherwise. Employee does not include a person exclusively on the premises for repair or
39 maintenance of the premises or for the delivery of goods to the premises;

40 ~~[(6)]~~ (7) "Explicit sexual material", any pictorial or three-dimensional material
41 depicting human masturbation, deviate sexual intercourse, sexual intercourse, direct physical
42 stimulation or unclothed genitals, sadomasochistic abuse, or emphasizing the depiction of
43 postpubertal human genitals; provided, however, that works of art or of anthropological
44 significance shall not be deemed to be within the foregoing definition;

45 ~~[(7)]~~ (8) "Furnish", to issue, sell, give, provide, lend, mail, deliver, transfer, circulate,
46 disseminate, present, exhibit or otherwise provide;

47 ~~[(8)]~~ (9) "Material", anything printed or written, or any picture, drawing, photograph,
48 motion picture film, videotape or videotape production, or pictorial representation, **or any**
49 **artificially generated visual depiction**, or any recording or transcription, or any mechanical,
50 chemical, or electrical reproduction, or stored computer data, or anything which is or may be
51 used as a means of communication. Material includes undeveloped photographs, molds,
52 printing plates, stored computer data and other latent representational objects;

53 ~~[(9)]~~ (10) "Minor", any person less than eighteen years of age;

54 ~~[(10)]~~ (11) "Nudity" or "state of nudity", the showing of the human genitals, pubic
55 area, vulva, anus, anal cleft, or the female breast with less than a fully opaque covering of any
56 part of the nipple or areola;

57 ~~[(11)]~~ (12) "Obscene", any material or performance if, taken as a whole:

58 (a) Applying contemporary community standards, its predominant appeal is to
59 prurient interest in sex; and

60 (b) The average person, applying contemporary community standards, would find the
61 material depicts or describes sexual conduct in a patently offensive way; and

62 (c) A reasonable person would find the material lacks serious literary, artistic,
63 political or scientific value;

64 ~~[(12)]~~ **(13)** "Operator", any person on the premises of a sexually oriented business
65 who causes the business to function, puts or keeps the business in operation, or is authorized
66 to manage the business or exercise overall operational control of the business premises. A
67 person may be found to be operating or causing to be operated a sexually oriented business
68 whether or not such person is an owner, part owner, or licensee of the business;

69 ~~[(13)]~~ **(14)** "Performance", any play, motion picture film, videotape, dance or
70 exhibition performed before an audience of one or more;

71 ~~[(14)]~~ **(15)** "Pornographic for minors", any material or performance if the following
72 apply:

73 (a) The average person, applying contemporary community standards, would find
74 that the material or performance, taken as a whole, has a tendency to cater or appeal to a
75 prurient interest of minors; and

76 (b) The material or performance depicts or describes nudity, sexual conduct, the
77 condition of human genitals when in a state of sexual stimulation or arousal, or
78 sadomasochistic abuse in a way which is patently offensive to the average person applying
79 contemporary adult community standards with respect to what is suitable for minors; and

80 (c) The material or performance, taken as a whole, lacks serious literary, artistic,
81 political, or scientific value for minors;

82 ~~[(15)]~~ **(16)** "Premises", the real property upon which a sexually oriented business is
83 located, and all appurtenances thereto and buildings thereon, including but not limited to the
84 sexually oriented business, the grounds, private walkways, and parking lots or parking
85 garages or both;

86 ~~[(16)]~~ **(17)** "Promote", to manufacture, issue, sell, provide, mail, deliver, transfer,
87 transmute, publish, distribute, circulate, disseminate, present, exhibit, or advertise, or to offer
88 or agree to do the same, by any means including a computer;

89 ~~[(17)]~~ **(18)** "Regularly", the consistent and repeated doing of the act so described;

90 ~~[(18)]~~ **(19)** "Sadomasochistic abuse", flagellation or torture by or upon a person as an
91 act of sexual stimulation or gratification;

92 ~~[(19)]~~ **(20)** "Semi-nude" or "state of semi-nudity", the showing of the female breast
93 below a horizontal line across the top of the areola and extending across the width of the
94 breast at such point, or the showing of the male or female buttocks. Such definition includes

95 the lower portion of the human female breast, but shall not include any portion of the
96 cleavage of the female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar
97 wearing apparel provided the areola is not exposed in whole or in part;

98 ~~[(20)]~~ **(21)** "Sexual conduct", actual or simulated, normal or perverted acts of human
99 masturbation; deviate sexual intercourse; sexual intercourse; or physical contact with a
100 person's clothed or unclothed genitals, pubic area, buttocks, or the breast of a female in an act
101 of apparent sexual stimulation or gratification or any sadomasochistic abuse or acts including
102 animals or any latent objects in an act of apparent sexual stimulation or gratification;

103 ~~[(21)]~~ **(22)** "Sexually explicit conduct", actual or simulated:

104 (a) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-
105 anal, whether between persons of the same or opposite sex;

106 (b) Bestiality;

107 (c) Masturbation;

108 (d) Sadistic or masochistic abuse; or

109 (e) Lascivious exhibition of the genitals or pubic area of any person;

110 ~~[(22)]~~ **(23)** "Sexually oriented business" includes:

111 (a) An adult bookstore or adult video store. "Adult bookstore" or "adult video store"
112 means a commercial establishment which, as one of its principal business activities, offers for
113 sale or rental for any form of consideration any one or more of the following: books,
114 magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video
115 cassettes, compact discs, digital video discs, slides, or other visual representations which are
116 characterized by their emphasis upon the display of specified sexual activities or specified
117 anatomical areas. A principal business activity exists where the commercial establishment:

118 a. Has a substantial portion of its displayed merchandise which consists of such
119 items; or

120 b. Has a substantial portion of the wholesale value of its displayed merchandise
121 which consists of such items; or

122 c. Has a substantial portion of the retail value of its displayed merchandise which
123 consists of such items; or

124 d. Derives a substantial portion of its revenues from the sale or rental, for any form of
125 consideration, of such items; or

126 e. Maintains a substantial section of its interior business space for the sale or rental of
127 such items; or

128 f. Maintains an adult arcade. "Adult arcade" means any place to which the public is
129 permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or
130 mechanically controlled still or motion picture machines, projectors, or other image-
131 producing devices are regularly maintained to show images to five or fewer persons per

132 machine at any one time, and where the images so displayed are characterized by their
133 emphasis upon matter exhibiting specified sexual activities or specified anatomical areas;

134 (b) An adult cabaret;

135 (c) An adult motion picture theater. "Adult motion picture theater" means a
136 commercial establishment where films, motion pictures, video cassettes, slides, or similar
137 photographic reproductions, which are characterized by their emphasis upon the display of
138 specified sexual activities or specified anatomical areas are regularly shown to more than five
139 persons for any form of consideration;

140 (d) A semi-nude model studio. "Semi-nude model studio" means a place where
141 persons regularly appear in a state of semi-nudity for money or any form of consideration in
142 order to be observed, sketched, drawn, painted, sculptured, photographed, or similarly
143 depicted by other persons. Such definition shall not apply to any place where persons
144 appearing in a state of semi-nudity do so in a modeling class operated:

145 a. By a college, junior college, or university supported entirely or partly by taxation;

146 b. By a private college or university which maintains and operates educational
147 programs in which credits are transferable to a college, junior college, or university supported
148 entirely or partly by taxation; or

149 c. In a structure:

150 (i) Which has no sign visible from the exterior of the structure and no other
151 advertising that indicates a semi-nude person is available for viewing; and

152 (ii) Where, in order to participate in a class, a student must enroll at least three days in
153 advance of the class;

154 (e) A sexual encounter center. "Sexual encounter center" means a business or
155 commercial enterprise that, as one of its principal purposes, purports to offer for any form of
156 consideration physical contact in the form of wrestling or tumbling between two or more
157 persons when one or more of the persons is semi-nude;

158 ~~[(23)]~~ (24) "Sexual performance", any performance, or part thereof, which includes
159 sexual conduct by a child who is less than eighteen years of age;

160 ~~[(24)]~~ (25) "Specified anatomical areas" include:

161 (a) Less than completely and opaquely covered: human genitals, pubic region,
162 buttock, and female breast below a point immediately above the top of the areola; and

163 (b) Human male genitals in a discernibly turgid state, even if completely and
164 opaquely covered;

165 ~~[(25)]~~ (26) "Specified sexual activity", includes any of the following:

166 (a) Intercourse, oral copulation, masturbation, or sodomy; or

167 (b) Excretory functions as a part of or in connection with any of the activities
168 described in paragraph (a) of this subdivision;

169 [~~26~~] (27) "Substantial", at least thirty percent of the item or items so modified;
170 [~~27~~] (28) "Visual depiction", includes undeveloped film and videotape, and data
171 stored on computer disk or by electronic means which is capable of conversion into a visual
172 image.

573.550. 1. A person commits the offense of providing explicit sexual material to a
2 student if such person is affiliated with a public or private elementary or secondary school in
3 an official capacity and, knowing of its content and character, such person provides, assigns,
4 supplies, distributes, loans, or coerces acceptance of or the approval of the providing of
5 explicit sexual material to a student or possesses with the purpose of providing, assigning,
6 supplying, distributing, loaning, or coercing acceptance of or the approval of the providing of
7 explicit sexual material to a student.

8 2. The offense of providing explicit sexual material to a student is a class A
9 misdemeanor.

10 3. As used in this section, the following terms shall mean:

11 (1) "Explicit sexual material", any pictorial, three-dimensional, or visual depiction **or**
12 **artificially generated visual depiction**, including any photography, film, video, picture, or
13 computer-generated image, showing human masturbation, deviate sexual intercourse as
14 defined in section 566.010, sexual intercourse, direct physical stimulation of genitals,
15 sadomasochistic abuse, or emphasizing the depiction of postpubertal human genitals;
16 provided, however, that works of art, when taken as a whole, that have serious artistic
17 significance, or works of anthropological significance, or materials used in science courses,
18 including but not limited to materials used in biology, anatomy, physiology, and sexual
19 education classes shall not be deemed to be within the foregoing definition;

20 (2) "Person affiliated with a public or private elementary or secondary school in an
21 official capacity", an administrator, teacher, librarian, media center personnel, substitute
22 teacher, teacher's assistant, student teacher, law enforcement officer, school board member,
23 school bus driver, guidance counselor, coach, guest lecturer, guest speaker, or other nonschool
24 employee who is invited to present information to students by a teacher, administrator, or
25 other school employee. Such term shall not include a student enrolled in the elementary or
26 secondary school.

573.570. 1. As used in this section, the following terms mean:

2 (1) "**Depicted individual**", **an individual who, as a result of digitization or by**
3 **means of digital manipulation, appears in whole or in part in a digital depiction and who**
4 **is identifiable by virtue of the individual's face, likeness, or other distinguishing**
5 **characteristic, such as a unique birthmark or other recognizable feature, or from**
6 **information displayed in connection with the digital depiction;**

7 **(2) "Digital depiction", a realistic visual depiction of an individual that has been**
8 **created or altered using digital manipulation;**

9 **(3) "Information content providers", any person or entity that is responsible, in**
10 **whole or in part, for the creation or development of information provided through the**
11 **internet or any other interactive computer service;**

12 **(4) "Interactive computer service", any information service, system, or access**
13 **software provider that provides or enables computer access by multiple users to a**
14 **computer server, including specifically a service or system that provides access to the**
15 **internet and such systems operated or services offered by libraries or educational**
16 **institutions;**

17 **(5) "Intimate digital depiction", a digital depiction of an individual that has been**
18 **created or altered using digital manipulation and that depicts:**

19 **(a) The uncovered genitals, pubic area, anus, or postpubescent female nipple of**
20 **the individual;**

21 **(b) The display or transfer of bodily sexual fluids:**

22 **a. Onto any part of the body of the individual; or**

23 **b. From the body of the individual; or**

24 **(c) The individual engaging in sexually explicit conduct;**

25 **(6) "Sexually explicit conduct", actual or simulated:**

26 **(a) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or**
27 **oral-anal, whether between persons of the same or opposite sex;**

28 **(b) Bestiality;**

29 **(c) Masturbation;**

30 **(d) Sadistic or masochistic abuse; or**

31 **(e) Lascivious exhibition of the genitals or pubic area of any individual.**

32 **2. A person commits the offense of disclosure of a digital depiction if the person**
33 **discloses, or threatens to disclose:**

34 **(1) A digital depiction of a depicted individual; or**

35 **(2) An intimate digital depiction:**

36 **(a) With the intent to harass, annoy, threaten, alarm, or cause substantial harm**
37 **to the finances or reputation of the depicted individual; or**

38 **(b) With the actual knowledge that or reckless disregard for whether such**
39 **disclosure or threatened disclosure will cause physical, emotional, reputational, or**
40 **economic harm to the depicted individual.**

41 **3. (1) A violation of subsection 2 of this section shall be a class E felony unless**
42 **the digital depiction is of a depicted individual who is under eighteen years of age in**
43 **which case it shall be a class D felony.**

44 (2) A violation of subsection 2 of this section shall be a class C felony if:

45 (a) The violation is a second or other subsequent violation of subsection 2 of this
46 section; or

47 (b) The violation is such that the digital depiction could be reasonably expected
48 to:

49 a. Affect the conduct of any administrative, legislative, or judicial proceeding of
50 a federal, state, local, or tribal government agency, including the administration of an
51 election or the conduct of foreign relations; or

52 b. Facilitate violence.

53 4. It shall not be a defense to the offense of disclosure of a digital depiction as
54 provided by this section that there is a disclaimer stating that the digital depiction was
55 unauthorized or that the depicted individual did not participate in the creation or
56 development of the digital depiction.

57 5. (1) No later than December 31, 2026, an information content provider shall
58 establish a process whereby a depicted individual or an authorized person acting on
59 behalf of such individual may:

60 (a) Notify the information content provider of a published digital depiction or
61 intimate digital depiction that includes a depiction of the depicted individual and such
62 depiction was published without the consent of the depicted individual; and

63 (b) Submit a request for the information content provider to remove such digital
64 depiction or intimate digital depiction.

65 (2) A notification and request for removal of a digital depiction or intimate
66 digital depiction submitted under subdivision (1) of this subsection shall include, in
67 writing:

68 (a) A physical or electronic signature of the depicted individual or authorized
69 person;

70 (b) An identification of, and information reasonably sufficient for the
71 information content provider to locate, the digital depiction or intimate digital
72 depiction of the depicted individual;

73 (c) A brief statement that the depicted individual has a good faith belief that any
74 digital depiction or intimate digital depiction identified under paragraph (b) of this
75 subdivision is not consensual, including any relevant information for the information
76 content provider to determine the digital depiction or intimate digital depiction was
77 published without the consent of the depicted individual; and

78 (d) Information sufficient to enable the information content provider to contact
79 the depicted individual or authorized person.

80 **(3) An information content provider shall provide on the platform a clear and**
81 **conspicuous notice, which may be provided through a clear and conspicuous link to**
82 **another web page or disclosure, of the notification and removal process established**
83 **under subdivision (1) of this subsection that:**

84 **(a) Is easy to read and in plain language; and**

85 **(b) Provides information regarding the responsibilities of the information**
86 **content provider under this subsection, including a description of how an individual can**
87 **submit a notification and request for removal.**

88 **(4) Upon receiving a valid removal request from a depicted individual or an**
89 **authorized person using the process described in subdivision (1) of this subsection, an**
90 **information content provider shall, as soon as practicable, but not later than forty-eight**
91 **hours after receiving such request:**

92 **(a) Remove the digital depiction or intimate digital depiction; and**

93 **(b) Make reasonable efforts to identify and remove any known identical copies**
94 **of such digital depiction or intimate digital depiction.**

95 **(5) An information content provider shall not be liable for any claim based on**
96 **the information content provider's good faith disabling of access to, or removal of,**
97 **material claimed to be a nonconsensual digital depiction or intimate digital depiction**
98 **based on facts or circumstances from which the unlawful publishing of a digital**
99 **depiction or intimate digital depiction is apparent, regardless of whether the digital**
100 **depiction or intimate digital depiction is ultimately determined to be unlawful.**

101 **(6) A failure to reasonably comply with the notice and removal obligations under**
102 **this subsection shall be treated as an unfair practice under section 407.020, and the**
103 **person or entity responsible shall be subject to the penalties provided in section 407.020.**

104 **(7) This subsection shall not apply to the following:**

105 **(a) An information service or a telecommunications service, as those terms are**
106 **defined in 47 U.S.C. Section 153, providing services for content provided by another**
107 **person;**

108 **(b) Email;**

109 **(c) Except as provided in paragraph (b) of subdivision (3) of subsection 1 of this**
110 **section, an online service, application, or website:**

111 **a. That consists primarily of content that is not user generated but is preselected**
112 **by the provider of such online service, application, or website; and**

113 **b. For which any chat, comment, or interactive functionality is incidental to,**
114 **directly related to, or dependent on the provision of the content described in**
115 **subparagraph a. of this paragraph.**

116 **6. The criminal penalties provided in subsection 3 of this section shall apply to**
117 **any parent or legal guardian who discloses an intimate digital depiction of his or her**
118 **child. As used in this subsection, the term "child" means a person under eighteen years**
119 **of age.**

120 **7. The criminal penalties provided in this section shall not apply to:**

121 **(1) A provider of an interactive computer service as defined in 47 U.S.C. Section**
122 **230(f)(2), of an information service as defined in 47 U.S.C. Section 153, or of a**
123 **communications service that provides the transmission, storage, or caching of electronic**
124 **communications or messages of others; another related telecommunications or**
125 **commercial mobile radio service; or content provided by another person;**

126 **(2) A law enforcement officer as defined in section 590.502, or any local, state,**
127 **federal, or military law enforcement agency engaged in the performance of his or her**
128 **duties as a law enforcement officer or the duties of the law enforcement agency;**

129 **(3) A person reporting unlawful activity; or**

130 **(4) A person participating in a hearing, trial, or other legal proceeding.**

✓