
SENATE BILL 5105

State of Washington

69th Legislature

2025 Regular Session

By Senators Orwall, Christian, Dhingra, Nobles, Salomon, Wellman, and C. Wilson

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1 AN ACT Relating to offenses involving fabricated depictions of
2 minors; amending RCW 9.68A.050, 9.68A.053, 9.68A.060, 9.68A.070,
3 9.68A.075, and 9.68A.110; reenacting and amending RCW 9.68A.011; and
4 creating a new section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature finds that rapid
7 advancements in artificial intelligence and other digital tools have
8 enabled users to easily create or alter images in a realistic manner,
9 resulting in the widespread proliferation of fabricated depictions
10 that are virtually indistinguishable from authentic images.

11 The legislature further finds that images of child sexual abuse
12 have been reported in training datasets for artificial intelligence
13 image generation, and that artificial intelligence and other digital
14 tools are increasingly capable of generating realistic images of
15 minors engaging in sexually explicit conduct.

16 The legislature further finds that artificial intelligence and
17 other digital tools have introduced significant barriers to the
18 detection and prosecution of crimes involving depictions of minors
19 engaging in sexually explicit conduct, including by contributing to
20 the increased volume of child sexual abuse material available online,
21 facilitating the alteration of real images of child sexual abuse to

1 evade conventional detection methods, and subverting conventional
2 digital detection tools such as hash match identification.

3 The legislature further finds that even where a fabricated
4 depiction of a minor engaging in sexually explicit conduct does not
5 depict an identifiable victim, exposure to such material may
6 nonetheless desensitize the creator and viewers to the sexual
7 exploitation and abuse of minors, distort perceptions of healthy
8 sexuality and relationships, and increase the likelihood of future
9 victimization.

10 The legislature further finds that it has a legitimate and
11 compelling interest in preventing the sexual exploitation and abuse
12 of children, and that even fabricated depictions of such conduct are
13 patently offensive and may be regulated without infringing on
14 constitutionally protected activity.

15 Therefore, the legislature intends to expand Washington's
16 existing prohibitions against fabricated depictions of minors engaged
17 in sexually explicit conduct to include circumstances where the
18 depicted minor is not identifiable.

19 **Sec. 2.** RCW 9.68A.011 and 2024 c 88 s 1 are each reenacted and
20 amended to read as follows:

21 Unless the context clearly indicates otherwise, the definitions
22 in this section apply throughout this chapter.

23 (1) "Digitization" means creating or altering any visual or
24 printed matter to depict ~~((an identifiable))~~ a minor in a realistic
25 manner utilizing images of another person or computer-generated
26 images, regardless of whether such creation or alteration is
27 accomplished manually or through an automated process. "Digitization"
28 includes, but is not limited to, creation or alteration of any visual
29 or printed matter by using artificial intelligence.

30 (2) ~~"Fabricated ((depiction of an identifiable minor" and~~
31 ~~"fabricated depiction" mean))~~ depiction" means any visual or printed
32 matter that ~~((depicts))~~ was created or altered by digitization to
33 depict a minor ~~((who is identifiable from the matter itself or from~~
34 ~~information displayed with or otherwise connected to the matter, and~~
35 ~~that was created or altered by digitization to depict the minor))~~
36 engaging in sexually explicit conduct ~~((in which the minor did not~~
37 ~~actually engage)), and that is obscene.~~

1 (3) An "internet session" means a period of time during which an
2 internet user, using a specific internet protocol address, visits or
3 is logged into an internet site for an uninterrupted period of time.

4 (4) "Live performance" means any play, show, skit, dance, or
5 other exhibition performed or presented to or before an audience of
6 one or more, with or without consideration.

7 (5) "Minor" means any person under (~~(eighteen)~~) 18 years of age.

8 (6) "Obscene" shall have and include all those meanings which are
9 assigned to it under the common law.

10 (7) To "photograph" means to make a print, negative, slide,
11 digital image, motion picture, or videotape. A "photograph" means
12 anything tangible or intangible produced by photographing.

13 (~~((7))~~) (8) "Sexually explicit conduct" means actual or
14 simulated:

15 (a) Sexual intercourse, including genital-genital, oral-genital,
16 anal-genital, or oral-anal, whether between persons of the same or
17 opposite sex or between humans and animals;

18 (b) Penetration of the vagina or rectum by any object;

19 (c) Masturbation;

20 (d) Sadomasochistic abuse;

21 (e) Defecation or urination for the purpose of sexual stimulation
22 of the viewer;

23 (f) Depiction of the genitals or unclothed pubic or rectal areas
24 of any minor, or the unclothed breast of a female minor, for the
25 purpose of sexual stimulation of the viewer. For the purposes of this
26 subsection (~~((7))~~) (8)(f), it is not necessary that the minor know
27 that he or she is participating in the described conduct, or any
28 aspect of it; and

29 (g) Touching of a person's clothed or unclothed genitals, pubic
30 area, buttocks, or breast area for the purpose of sexual stimulation
31 of the viewer.

32 (~~((8))~~) (9) "Visual or printed matter" means any photograph or
33 other material that contains a reproduction of a photograph. "Visual
34 or printed matter" includes, but is not limited to, any such
35 photograph or other material that constitutes a fabricated depiction
36 (~~(of an identifiable minor)~~).

37 **Sec. 3.** RCW 9.68A.050 and 2019 c 128 s 3 are each amended to
38 read as follows:

1 (1) (a) A person (~~(eighteen)~~) 18 years of age or older commits the
2 crime of dealing in depictions of a minor engaged in sexually
3 explicit conduct in the first degree when he or she:

4 (i) Knowingly develops, duplicates, publishes, prints,
5 disseminates, exchanges, finances, attempts to finance, or sells a
6 visual or printed matter that depicts a minor engaged in an act of
7 sexually explicit conduct as defined in RCW 9.68A.011(~~((+4))~~) (8) (a)
8 through (e); or

9 (ii) Possesses with intent to develop, duplicate, publish, print,
10 disseminate, exchange, or sell any visual or printed matter that
11 depicts a minor engaged in an act of sexually explicit conduct as
12 defined in RCW 9.68A.011(~~((+4))~~) (8) (a) through (e).

13 (b) Dealing in depictions of a minor engaged in sexually explicit
14 conduct in the first degree is a class B felony punishable under
15 chapter 9A.20 RCW.

16 (c) For the purposes of determining the unit of prosecution under
17 this subsection, each depiction or image of visual or printed matter
18 constitutes a separate offense.

19 (2) (a) A person (~~(eighteen)~~) 18 years of age or older commits the
20 crime of dealing in depictions of a minor engaged in sexually
21 explicit conduct in the second degree when he or she:

22 (i) Knowingly develops, duplicates, publishes, prints,
23 disseminates, exchanges, finances, attempts to finance, or sells any
24 visual or printed matter that depicts a minor engaged in an act of
25 sexually explicit conduct as defined in RCW 9.68A.011(~~((+4))~~) (8) (f)
26 or (g); or

27 (ii) Possesses with intent to develop, duplicate, publish, print,
28 disseminate, exchange, or sell any visual or printed matter that
29 depicts a minor engaged in an act of sexually explicit conduct as
30 defined in RCW 9.68A.011(~~((+4))~~) (8) (f) or (g).

31 (b) Dealing in depictions of a minor engaged in sexually explicit
32 conduct in the second degree is a class B felony punishable under
33 chapter 9A.20 RCW.

34 (c) For the purposes of determining the unit of prosecution under
35 this subsection, each incident of dealing in one or more depictions
36 or images of visual or printed matter constitutes a separate offense.

37 **Sec. 4.** RCW 9.68A.053 and 2019 c 128 s 4 are each amended to
38 read as follows:

1 (1) (a) (i) A person under the age of (~~eighteen~~) 18 commits the
2 crime of a minor dealing in depictions of another minor (~~thirteen~~)
3 13 years of age or older engaged in sexually explicit conduct in the
4 first degree when he or she knowingly distributes, publishes,
5 transfers, disseminates, or exchanges a visual or printed matter that
6 depicts another minor (~~thirteen~~) 13 years of age or older engaged
7 in an act of sexually explicit conduct as defined in RCW
8 9.68A.011(~~(+4)~~) (8) (a) through (e).

9 (ii) Minor dealing in depictions of another minor (~~thirteen~~) 13
10 years of age or older engaged in sexually explicit conduct in the
11 first degree is a gross misdemeanor.

12 (b) (i) A person under the age of (~~eighteen~~) 18 commits the
13 crime of a minor dealing in depictions of another minor (~~thirteen~~)
14 13 years of age or older engaged in sexually explicit conduct in the
15 second degree when he or she knowingly distributes, publishes,
16 transfers, disseminates, or exchanges a visual or printed matter that
17 depicts another minor (~~thirteen~~) 13 years of age or older engaged
18 in an act of sexually explicit conduct as defined in RCW
19 9.68A.011(~~(+4)~~) (8) (f) or (g).

20 (ii) Minor dealing in depictions of another minor (~~thirteen~~) 13
21 years of age or older engaged in sexually explicit conduct in the
22 second degree is a misdemeanor.

23 (2) (a) A person under age (~~eighteen~~) 18 commits the crime of
24 minor dealing in depictions of another minor (~~twelve~~) 12 years of
25 age or younger engaged in sexually explicit conduct in the first
26 degree when he or she:

27 (i) Knowingly develops, duplicates, publishes, prints,
28 disseminates, exchanges, finances, attempts to finance, or sells a
29 visual or printed matter that depicts another minor (~~twelve~~) 12
30 years of age or younger engaged in an act of sexually explicit
31 conduct as defined in RCW 9.68A.011(~~(+4)~~) (8) (a) through (e); or

32 (ii) Possesses with intent to develop, duplicate, publish, print,
33 disseminate, exchange, or sell any visual or printed matter that
34 depicts another minor (~~twelve~~) 12 years of age or younger engaged
35 in an act of sexually explicit conduct as defined in RCW
36 9.68A.011(~~(+4)~~) (8) (a) through (e).

37 (b) Minor dealing in depictions of another minor (~~twelve~~) 12
38 years of age or younger engaged in sexually explicit conduct in the
39 first degree is a class B felony punishable under chapter 9A.20 RCW.

1 (3) (a) A person under age (~~(eighteen)~~) 18 commits the crime of
2 minor dealing in depictions of another minor (~~(twelve)~~) 12 years of
3 age or younger engaged in sexually explicit conduct in the second
4 degree when he or she:

5 (i) Knowingly develops, duplicates, publishes, prints,
6 disseminates, exchanges, finances, attempts to finance, or sells any
7 visual or printed matter that depicts another minor (~~(twelve)~~) 12
8 years of age or younger engaged in an act of sexually explicit
9 conduct as defined in RCW 9.68A.011(~~(+4)~~) (8) (f) or (g); or

10 (ii) Possesses with intent to develop, duplicate, publish, print,
11 disseminate, exchange, or sell any visual or printed matter that
12 depicts another minor (~~(twelve)~~) 12 years of age or younger engaged
13 in an act of sexually explicit conduct as defined in RCW
14 9.68A.011(~~(+4)~~) (8) (f) or (g).

15 (b) Minor dealing in depictions of a minor (~~(twelve)~~) 12 years of
16 age or younger engaged in sexually explicit conduct in the second
17 degree is a class B felony punishable under chapter 9A.20 RCW.

18 (4) (a) Any person under the age of (~~(eighteen)~~) 18 commits the
19 crime of minor financing or selling depictions of another minor
20 engaged in sexually explicit conduct when he or she finances,
21 attempts to finance, or sells a visual or printed matter that depicts
22 a minor engaged in an act of sexually explicit conduct as defined in
23 RCW 9.68A.011(~~(+4)~~) (8) (a) through (g).

24 (b) Minor financing or selling depictions of another minor
25 engaged in sexually explicit conduct is a class B felony punishable
26 under chapter 9A.20 RCW.

27 (5) (a) A person under the age of (~~(eighteen)~~) 18 commits the
28 crime of minor selling depictions of himself or herself engaged in
29 sexually explicit conduct when he or she sells a visual or printed
30 matter that depicts himself or herself engaged in an act of sexually
31 explicit conduct as defined in RCW 9.68A.011(~~(+4)~~) (8) (a) through
32 (g).

33 (b) Minor selling depictions of himself or herself engaged in
34 sexually explicit conduct is a misdemeanor.

35 (6) This section does not apply to a person under (~~(eighteen)~~) 18
36 years of age who finances, attempts to finance, develops, duplicates,
37 publishes, prints, disseminates, exchanges, or possesses a visual or
38 printed matter that depicts himself or herself engaged in an act of
39 sexually explicit conduct as defined in RCW 9.68A.011(~~(+4)~~) (8).

1 (7) For the purposes of determining the unit of prosecution under
2 this section, each depiction or image of visual or printed matter
3 constitutes a separate offense.

4 **Sec. 5.** RCW 9.68A.060 and 2019 c 128 s 5 are each amended to
5 read as follows:

6 (1)(a) Except as provided in subsections (3) and (4) of this
7 section, a person commits the crime of sending or bringing into the
8 state depictions of a minor engaged in sexually explicit conduct in
9 the first degree when he or she knowingly sends or causes to be sent,
10 or brings or causes to be brought, into this state for sale or
11 distribution, a visual or printed matter that depicts a minor engaged
12 in sexually explicit conduct as defined in RCW 9.68A.011(~~((4))~~) (8)
13 (a) through (e).

14 (b) Sending or bringing into the state depictions of a minor
15 engaged in sexually explicit conduct in the first degree is a class B
16 felony punishable under chapter 9A.20 RCW.

17 (c) For the purposes of determining the unit of prosecution under
18 this subsection, each depiction or image of visual or printed matter
19 constitutes a separate offense.

20 (2)(a) Except as provided in subsections (3) and (4) of this
21 section, a person commits the crime of sending or bringing into the
22 state depictions of a minor engaged in sexually explicit conduct in
23 the second degree when he or she knowingly sends or causes to be
24 sent, or brings or causes to be brought, into this state for sale or
25 distribution, any visual or printed matter that depicts a minor
26 engaged in sexually explicit conduct as defined in RCW
27 9.68A.011(~~((4))~~) (8) (f) or (g).

28 (b) Sending or bringing into the state depictions of a minor
29 engaged in sexually explicit conduct in the second degree is a class
30 B felony punishable under chapter 9A.20 RCW.

31 (c) For the purposes of determining the unit of prosecution under
32 this subsection, each incident of sending or bringing into the state
33 one or more depictions or images of visual or printed matter
34 constitutes a separate offense.

35 (3) This section does not apply to a minor who knowingly sends or
36 causes to be sent, or brings or causes to be brought, into this state
37 for distribution, visual or printed matter depicting any minor
38 (~~((thirteen))~~) 13 years of age or older engaged in sexually explicit
39 conduct.

1 (4) This section does not apply to a person under (~~thirteen~~) 13
2 years of age who knowingly sends or causes to be sent, or brings or
3 causes to be brought, into this state for distribution, visual or
4 printed matter depicting himself or herself engaged in sexually
5 explicit conduct.

6 **Sec. 6.** RCW 9.68A.070 and 2019 c 128 s 6 are each amended to
7 read as follows:

8 (1)(a) Except as provided in subsections (3) and (4) of this
9 section, a person commits the crime of possession of depictions of a
10 minor engaged in sexually explicit conduct in the first degree when
11 he or she knowingly possesses a visual or printed matter depicting a
12 minor engaged in sexually explicit conduct as defined in RCW
13 9.68A.011(~~(4)~~) (8) (a) through (e).

14 (b) Possession of depictions of a minor engaged in sexually
15 explicit conduct in the first degree is a class B felony punishable
16 under chapter 9A.20 RCW.

17 (c) For the purposes of determining the unit of prosecution under
18 this subsection, each depiction or image of visual or printed matter
19 constitutes a separate offense.

20 (2)(a) Except as provided in subsections (3) and (4) of this
21 section, a person commits the crime of possession of depictions of a
22 minor engaged in sexually explicit conduct in the second degree when
23 he or she knowingly possesses any visual or printed matter depicting
24 a minor engaged in sexually explicit conduct as defined in RCW
25 9.68A.011(~~(4)~~) (8) (f) or (g).

26 (b) Possession of depictions of a minor engaged in sexually
27 explicit conduct in the second degree is a class B felony punishable
28 under chapter 9A.20 RCW.

29 (c) For the purposes of determining the unit of prosecution under
30 this subsection, each incident of possession of one or more
31 depictions or images of visual or printed matter constitutes a
32 separate offense.

33 (3) This section does not apply to a minor's possession of visual
34 or printed matter depicting any minor (~~thirteen~~) 13 years of age or
35 older engaged in sexually explicit conduct.

36 (4) This section does not apply to a person under (~~thirteen~~) 13
37 years of age in possession of visual or printed matter depicting
38 himself or herself engaged in sexually explicit conduct.

1 **Sec. 7.** RCW 9.68A.075 and 2019 c 128 s 7 are each amended to
2 read as follows:

3 (1) Except as provided in subsections (5) and (6) of this
4 section, a person who intentionally views over the internet visual or
5 printed matter depicting a minor engaged in sexually explicit conduct
6 as defined in RCW 9.68A.011(~~((4))~~) (8) (a) through (e) is guilty of
7 viewing depictions of a minor engaged in sexually explicit conduct in
8 the first degree, a class B felony punishable under chapter 9A.20
9 RCW.

10 (2) Except as provided in subsections (5) and (6) of this
11 section, a person who intentionally views over the internet visual or
12 printed matter depicting a minor engaged in sexually explicit conduct
13 as defined in RCW 9.68A.011(~~((4))~~) (8) (f) or (g) is guilty of
14 viewing depictions of a minor engaged in sexually explicit conduct in
15 the second degree, a class C felony punishable under chapter 9A.20
16 RCW.

17 (3) For the purposes of determining whether a person
18 intentionally viewed over the internet a visual or printed matter
19 depicting a minor engaged in sexually explicit conduct in subsection
20 (1) or (2) of this section, the trier of fact shall consider the
21 title, text, and content of the visual or printed matter, as well as
22 the internet history, search terms, thumbnail images, downloading
23 activity, expert computer forensic testimony, number of visual or
24 printed matter depicting minors engaged in sexually explicit conduct,
25 defendant's access to and control over the electronic device and its
26 contents upon which the visual or printed matter was found, or any
27 other relevant evidence. The state must prove beyond a reasonable
28 doubt that the viewing was initiated by the user of the computer
29 where the viewing occurred.

30 (4) For the purposes of this section, each separate internet
31 session of intentionally viewing over the internet visual or printed
32 matter depicting a minor engaged in sexually explicit conduct
33 constitutes a separate offense.

34 (5) This section does not apply to a minor who intentionally
35 views over the internet visual or printed matter depicting a minor
36 (~~((thirteen))~~) 13 years of age or older engaged in sexually explicit
37 conduct.

38 (6) This section does not apply to a person under (~~((thirteen))~~) 13
39 years of age who intentionally views over the internet visual or

1 printed matter depicting himself or herself engaged in sexually
2 explicit conduct.

3 **Sec. 8.** RCW 9.68A.110 and 2024 c 88 s 3 are each amended to read
4 as follows:

5 (1) In a prosecution under RCW 9.68A.040, it is not a defense
6 that the defendant was involved in activities of law enforcement and
7 prosecution agencies in the investigation and prosecution of criminal
8 offenses. Law enforcement and prosecution agencies shall not employ
9 minors to aid in the investigation of a violation of RCW 9.68A.090 or
10 9.68A.100 through 9.68A.102, except for the purpose of facilitating
11 an investigation where the minor is also the alleged victim and the:

12 (a) Investigation is authorized pursuant to RCW
13 9.73.230(1)(b)(ii) or 9.73.210(1)(b); or

14 (b) Minor's aid in the investigation involves only telephone or
15 electronic communication with the defendant.

16 (2) In a prosecution under RCW 9.68A.050, 9.68A.060, 9.68A.070,
17 or 9.68A.080, it is not a defense that the defendant did not know the
18 age of the child depicted in the visual or printed matter. It is a
19 defense, which the defendant must prove by a preponderance of the
20 evidence, that at the time of the offense the defendant was not in
21 possession of any facts on the basis of which he or she should
22 reasonably have known that the person depicted was a minor.

23 (3) In a prosecution under RCW 9.68A.040, 9.68A.090, 9.68A.100,
24 9.68A.101, or 9.68A.102, it is not a defense that the defendant did
25 not know the alleged victim's age. It is a defense, which the
26 defendant must prove by a preponderance of the evidence, that at the
27 time of the offense, the defendant made a reasonable bona fide
28 attempt to ascertain the true age of the minor by requiring
29 production of a driver's license, marriage license, birth
30 certificate, or other governmental or educational identification card
31 or paper and did not rely solely on the oral allegations or apparent
32 age of the minor.

33 (4) In a prosecution under RCW 9.68A.050, 9.68A.060, 9.68A.070,
34 or 9.68A.075, it shall be an affirmative defense that the defendant
35 was a law enforcement officer or a person specifically authorized, in
36 writing, to assist a law enforcement officer and acting at the
37 direction of a law enforcement officer in the process of conducting
38 an official investigation of a sex-related crime against a minor, or
39 that the defendant was providing individual case treatment as a

1 recognized medical facility or as a psychiatrist or psychologist
2 licensed under Title 18 RCW. Nothing in chapter 227, Laws of 2010 is
3 intended to in any way affect or diminish the immunity afforded an
4 electronic communication service provider, remote computing service
5 provider, or domain name registrar acting in the performance of its
6 reporting or preservation responsibilities under 18 U.S.C. Secs.
7 2258a, 2258b, or 2258c.

8 (5) In a prosecution under RCW 9.68A.050, 9.68A.060, 9.68A.070,
9 or 9.68A.075, the state is not required to establish the identity of
10 the alleged victim (~~((unless the charged offense involves a fabricated
11 depiction))~~).

12 (6) In a prosecution under RCW 9.68A.070 or 9.68A.075, it shall
13 be an affirmative defense that:

14 (a) The defendant was employed at or conducting research in
15 partnership or in cooperation with any institution of higher
16 education as defined in RCW 28B.07.020 or 28B.10.016, and:

17 (i) He or she was engaged in a research activity;

18 (ii) The research activity was specifically approved prior to the
19 possession or viewing activity being conducted in writing by a
20 person, or other such entity vested with the authority to grant such
21 approval by the institution of higher education; and

22 (iii) Viewing or possessing the visual or printed matter is an
23 essential component of the authorized research; or

24 (b) The defendant was an employee of the Washington state
25 legislature engaged in research at the request of a member of the
26 legislature and:

27 (i) The request for research is made prior to the possession or
28 viewing activity being conducted in writing by a member of the
29 legislature;

30 (ii) The research is directly related to a legislative activity;
31 and

32 (iii) Viewing or possessing the visual or printed matter is an
33 essential component of the requested research and legislative
34 activity.

35 (7) In a prosecution under RCW 9.68A.050, 9.68A.053, 9.68A.060,
36 9.68A.070, or 9.68A.075 where the charged offense involves a
37 fabricated depiction, ((~~it~~)) the state is not required to establish
38 that the minor depicted actually exists. It is not a defense that the
39 defendant lacked knowledge of whether the fabricated depiction had

1 been created or altered by digitization, or that the defendant lacked
2 knowledge of whether the minor depicted actually exists.

3 (8) Nothing in this section authorizes otherwise unlawful viewing
4 or possession of visual or printed matter depicting a minor engaged
5 in sexually explicit conduct.

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