



www.lsc.ohio.gov

OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

Substitute Bill Comparative Synopsis

Sub. H.B. 295

135th General Assembly

House Criminal Justice

Shalanda Plowden, Research Analyst

This table summarizes how the latest substitute version of the bill differs from the immediately preceding version. It addresses only the topics on which the two versions differ substantively. It does not list topics on which the two bills are substantively the same.

| Previous Version (As Introduced) | Latest Version (I_135_0364-8) |
|---|---|
| Commencing a civil action | |
| <p>Allows a victim of nonconsensual dissemination of fabricated sexual images to commence a civil action against the offender and allows the plaintiff to recover compensatory damages, reasonable attorney's fees, court costs, and other reasonable expenses incurred in maintaining the civil action (<i>R.C. 2307.69</i>).</p> <p>No provision.</p> | <p>Allows a victim of nonconsensual dissemination of fabricated sexual images to commence a civil cause of action against the offender for any of the following, in addition to reasonable attorney's fees and the costs of bringing the civil action (<i>R.C. 2307.66(A)</i>):</p> <ol style="list-style-type: none"><li data-bbox="885 1350 1425 1486">1. An injunction or a temporary restraining order prohibiting further dissemination of the image that is the subject of the violation;<li data-bbox="885 1507 1425 1577">2. Compensatory and punitive damages for harm resulting from the violation. <p>Requires that the victim be presumed to have suffered harm as a result of the nonconsensual dissemination of fabricated sexual images (<i>R.C. 2307.66(B)</i>).</p> |

| Previous Version (As Introduced) | Latest Version (I_135_0364-8) |
|--|---|
| <p>No provision.</p> <p>No provision.</p> <p>Allows a victim of failure to verify age of person accessing materials that are obscene or harmful to juveniles may commence a civil action against the offender and may recover compensatory damages, reasonable attorney's fees, court costs, and other reasonable expenses incurred in maintaining a civil action (R.C. 2307.68).</p> | <p>Requires the civil action be brought within four years after the cause of action accrues (R.C. 2307.66(C)).</p> <p>Defines "fabricated sexual image" as a created, adapted, or modified image that depicts another person, the other person is recognizable in the image by the other person's face, likeness, or other distinguishing characteristic, and the other person depicted in the image is in a state of nudity or is engaged in a sexual act (R.C. 2307.66(F)).</p> <p>Same provision but requires that the civil action be brought within two years after the action accrues and provides that a victim of a violation of failure to verify age of person accessing materials that are obscene or harmful to juveniles is a person under age 18 or a parent or guardian of the minor who is bringing the action on behalf of the person (R.C. 2307.68(A) and (B)).</p> |
| Age verification and internet protection | |
| <p>No provision.</p> <p>Defines "organization" as a corporation for profit or not-for-profit, partnership, limited partnership, joint venture, unincorporated nonprofit association, estate, trust, or other commercial or legal entity. "Organization" does not include an entity organized as or by a governmental agency for the execution of a governmental program (R.C. 2907.312(A)(8)).</p> | <p>Defines "cable service provider" as any person or group of persons that is engaged in the provision of cable service over a cable system and directly or indirectly owns a significant interest in the cable system, or that through any arrangement otherwise controls or is responsible for the management and operation of the cable system (R.C. 2907.312(A)(1)).</p> <p>Redefines "organization" to mean both of the following (R.C. 2907.312(A)(8)):</p> <ol style="list-style-type: none"> 1. A commercial establishment that, for any form of consideration, has as a significant or substantial portion of its stock-in-trade in, derives a significant or substantial portion of its revenues from, devotes a significant or substantial |

| Previous Version (As Introduced) | Latest Version (I_135_0364-8) |
|--|--|
| <p>Defines “photo identification” as one of the following documents that includes the individual’s name and photograph and is not expired and includes any substantially similar license issued by another state, district, county, or sovereignty (R.C. 2907.312(A)(9)):</p> <ol style="list-style-type: none"> 1. An Ohio driver’s license, state identification card, or interim identification form issued by the registrar of motor vehicles or a deputy registrar; 2. A United States passport or passport card; 3. A United States military identification card, Ohio National Guard identification card, or United States Department of Veterans Affairs identification card. | <p>portion of its content or advertising to, or maintains a substantial section of its sales or online content display space for the sale, rental, or viewing of materials that are obscene or harmful to juveniles;</p> <ol style="list-style-type: none"> 2. A commercial establishment as defined in R.C. 2907.38. An establishment may have other principal business purposes that do not involve selling, delivering, furnishing, disseminating, providing, exhibiting, or presenting any material or performance that is obscene or harmful to juveniles on the internet and still be categorized as an organization subject to the provisions of the bill. The existence of other principal business purposes does not exempt an establishment from being categorized as an organization subject to the provisions of the bill, so long as one of its principal business purposes involves selling, delivering, furnishing, disseminating, providing, exhibiting, or presenting any material or performance that is obscene or harmful to juveniles on the internet. <p>Same provision but instead specifies that “photo identification” includes any <i>government-issued identification</i> issued by another state, district, county, or sovereignty (R.C. 2907.312(A)(9)).</p> |

| Previous Version (As Introduced) | Latest Version (I_135_0364-8) |
|---|--|
| <p>Defines “reasonable age verification methods” as verifying that the person attempting to access the material or performance that is obscene or harmful to juveniles is age 18 or older through the use of a commercial age verification system that uses photo identification or public or private transactional data to verify the person’s age (R.C. 2907.312(A)(10)).</p> <p>Prohibits an organization who sells, delivers, furnishes, disseminates, provides, exhibits, or presents any material or performance that is obscene or harmful to juveniles on the internet from recklessly failing to verify that any person attempting to access the material or performance is age 18 or older (R.C. 2907.312(B)(1)).</p> | <p>Modifies the definition of “reasonable age verification methods” by including the following (R.C. 2907.312(A)(10)):</p> <ol style="list-style-type: none"> 1. Using previously verified information that allows access to materials that are obscene or harmful to juveniles if the organization reasonably believes that the person attempting to access the material is age 18 or older and the information provided is accurate; 2. Using third-party and governmental databases that use a commercial age verification system that uses photo identification or public or private transactional data to verify the person’s age. <p>Same provision but also specifies the following (R.C. 2907.312(B)(2)):</p> <ol style="list-style-type: none"> 1. That the organization must utilize a geofence system maintained and monitored by a licensed location-based technology provider to dynamically monitor the geolocation of persons attempting to access the material or performance that is obscene or harmful to juveniles; 2. That the location-based technology provider must also perform a geolocation check to dynamically monitor the person attempting to access the material or performance that is obscene or harmful to juveniles and the person’s location; 3. That if location-based technology providers determine that a person is located in the state, the organization must block the person until the person’s age is verified through reasonable age verification methods; 4. That the organization that sells, delivers, furnishes, disseminates, provides, |

| Previous Version (As Introduced) | Latest Version (I_135_0364-8) |
|---|---|
| <p>Prohibits an organization that sells, delivers, furnishes, disseminates, provides, exhibits, or presents any material or performance that is obscene or harmful to juveniles on the internet and verifies the age of the person attempting to access the material or performance that is obscene or harmful to juveniles from recklessly retaining any identifying information of the person attempting to access the material or performance for more than 30 days (<i>R.C. 2907.312(C)</i>).</p> | <p>exhibits, or presents any material or performance that is obscene or harmful to juveniles on the internet must implement a notification mechanism to alert persons attempting to access the material or performances that are harmful to juveniles, of a geolocation check failure.</p> <p>Modifies the time of retention of information to two years and requires an organization that verifies the age of the person attempting to access the material or performance that is obscene or harmful to juveniles to do all of the following (<i>R.C. 2907.312(C)(1) and (2)</i>):</p> <ol style="list-style-type: none"> 1. Delete all information gathered not more than two years after each age verification; 2. Develop and maintain a data privacy policy compliant with federal and state law and maintain data in a manner that is reasonably secure; 3. Maintain only the following information: <ol style="list-style-type: none"> a. The person’s full name and date of birth; b. The person’s primary address; c. A website account number or username of the person, if applicable; d. The type of government-issued identification, the government-issued identification number, and a digital copy of the identification of the person, if applicable; e. The method and any other information used to verify the person’s age; f. The date of identity verification; |

| Previous Version (As Introduced) | Latest Version (I_135_0364-8) |
|--|--|
| <p>No provision.</p> <p>Provides that an organization that recklessly fails to verify that any person attempting to access the material or performance that is obscene or harmful to juveniles is age 18 or older through reasonable age verification methods or recklessly retains any identifying information of the person attempting to access the material or performance that is obscene or harmful to juveniles for more than 30 days is guilty of failure to verify age of a person accessing materials that are obscene or harmful to juveniles, a third degree felony (<i>R.C. 2907.312(H)(1)</i>).</p> <p>Provides that whoever recklessly provides false identifying information for the purpose of attempting to access the material or performance that is obscene or harmful to juveniles on the internet is guilty of use of false identifying information to access materials that are obscene or harmful to juveniles, a fourth degree misdemeanor (<i>R.C. 2907.312(H)(2)</i>).</p> | <p>g. A history of granted access to the person to materials, if applicable.</p> <p>Allows an organization to use previously verified information before the expiration of two years from the date the individual's age was verified and, after the expiration of that two-year period, the organization must verify that previously verified information (<i>R.C. 2907.312(G)</i>).</p> <p>Reduces the penalty for failure to verify age of a person accessing materials that are obscene or harmful to juveniles to a first degree misdemeanor and makes each day that a person violates the provision a separate offense (<i>R.C. 2907.312(I)(1)</i>).</p> <p>Same provision but also specifies that committing the offense of use of false identifying information to access materials that are obscene or harmful to juveniles is a delinquent act that would be a fourth degree misdemeanor if committed by an adult (<i>R.C. 2907.312(I)(2)</i>).</p> |
| Nonconsensual dissemination of fabricated sexual images | |
| <p>No provision.</p> <p>Prohibits a person from knowingly disseminating an image of another person if all of the following apply (<i>R.C. 2917.211(C)</i>):</p> <ol style="list-style-type: none"> 1. The person created, adapted, or modified an image to depict another person, and the other person is recognizable in the image by the other | <p>Adds cross-reference to the definition of "fabricated sexual image" (<i>R.C. 2917.211(A)(11)</i>).</p> <p>Modifies the prohibition by removing the list of requirements and instead prohibiting a person from knowingly disseminating a fabricated sexual image of another person without the other person's consent (<i>R.C. 2917.211(C)</i>).</p> |

| Previous Version (As Introduced) | Latest Version (I_135_0364-8) |
|---|---|
| <p>person's face, likeness, or other distinguishing characteristic;</p> <ol style="list-style-type: none"> 2. The person depicted in the image is in a state of nudity or is engaged in a sexual act; 3. The image is disseminated without consent from the person depicted in the image. | |
| <p>No provision.</p> | <p>Prohibits a person, without the consent of the depicted person, in order to harass, extort, threaten, or cause physical, emotional, reputational, or economic harm to a person falsely depicted, from knowingly doing either of the following (<i>R.C. 2917.211(D)</i>):</p> <ol style="list-style-type: none"> 1. Creating a fabricated sexual image with intent to distribute; 2. Soliciting the creation of a fabricated sexual image with intent to distribute. |
| <p>No provision.</p> | <p>Specifies that dissemination of fabricated sexual images (along with images under existing law) is not prohibited if any of the following apply (<i>R.C. 2917.211(E)</i>):</p> <ol style="list-style-type: none"> 1. The fabricated sexual image is disseminated for the purpose of a criminal investigation that is otherwise lawful; 2. The fabricated sexual image is disseminated for the purpose of, or in connection with, the reporting of unlawful conduct; 3. The fabricated sexual image is part of a news report or commentary or an artistic or expressive work, such as a performance, work of art, literary work, theatrical work, musical work, motion picture, film, or audiovisual work; 4. The fabricated sexual image is disseminated by a law enforcement officer, or a corrections officer or guard |

| Previous Version (As Introduced) | Latest Version (I_135_0364-8) |
|---|--|
| | <p>in a detention facility, acting within the scope of the person's official duties;</p> <ol style="list-style-type: none"> 5. The fabricated sexual image is disseminated for another lawful public purpose; 6. If the person in the image or fabricated sexual image is age 18 or older, the person in the fabricated sexual image is knowingly and willingly in a state of nudity or engaged in a sexual act and is knowingly and willingly in a location in which the person does not have reasonable expectation of privacy; 7. The fabricated sexual image is disseminated for the purpose of medical treatment or examination. <p>Specifies that providers of interactive computer services, mobile services, telecommunication carriers, internet providers, cable service providers, direct-to-home satellite services, or video service providers are not liable for dissemination of fabricated sexual images solely as a result of a fabricated sexual image (along with an image under existing law) or other information is provided by another person (<i>R.C. 2917.211(F)</i>).</p> |
| <p>Specifies that knowingly disseminating an image of another person nonconsensual dissemination of private sexual images, a third degree misdemeanor (<i>R.C. 2917.211(G)(1)(a)</i>).</p> | <p>Increases the penalty for nonconsensual dissemination of private sexual images from a third degree misdemeanor to a fifth degree felony (<i>R.C. 2917.211(H)(1)(a)</i>).</p> |
| <p>Provides that if the offender was previously convicted of or pleaded guilty to nonconsensual dissemination of private sexual images, the offense is a second degree misdemeanor (<i>R.C. 2917.211(G)(1)(b)</i>).</p> | <p>Increases the penalty for nonconsensual dissemination of private sexual images to a fourth degree felony if the offender previously had been convicted of or pleaded guilty to nonconsensual dissemination of private sexual images, a sexually oriented offense, or a child-victim oriented offense (<i>R.C. 2917.211(H)(1)(b)</i>).</p> |
| <p>Provides that if the offender was previously convicted of or pleaded guilty to two or more violations of the offense of nonconsensual</p> | <p>No provision.</p> |

| Previous Version (As Introduced) | Latest Version (I_135_0364-8) |
|--|---|
| <p>dissemination of private sexual images, the offense is a first degree misdemeanor (<i>R.C. 2917.211(G)(1)(c)</i>).</p> <p>Provides that if the offender is under age 18 and the person in the image is not more than five years older than the offender, the offender will not be prosecuted (<i>R.C. 2917.211(G)(1)(d)</i>).</p> <p>Provides that unless a person was previously convicted of nonconsensual dissemination of fabricated sexual images, a person who knowingly disseminates an image of another person is guilty of nonconsensual dissemination of fabricated sexual images, a third degree felony, if all of the following apply (<i>R.C. 2917.211(C) and (G)(2)(a)</i>):</p> <ol style="list-style-type: none"> 1. The person created, adapted, or modified an image to depict another person, and the other person is recognizable in the image by the other person's face, likeness, or other distinguishing characteristic; 2. The person depicted in the image is in a state of nudity or is engaged in a sexual act; 3. The image is disseminated without consent from the person depicted in the image. <p>Provides that if the offender was previously convicted of or pleaded guilty to a violation of nonconsensual dissemination of fabricated sexual images, a sexually oriented offense, or a child-victim oriented offense, nonconsensual dissemination of fabricated sexual images is a second degree felony (<i>R.C. 2917.211(G)(2)(b)</i>).</p> <p>Provides that if the offender is under age 18, nonconsensual dissemination of fabricated sexual images is a first degree misdemeanor (<i>R.C. 2917.211(G)(2)(c)</i>).</p> | <p>No provision.</p> <p>Decreases the penalty for nonconsensual dissemination of fabricated sexual images from a third degree felony to a fourth degree felony (<i>R.C. 2917.211(H)(2)(a)</i>).</p> <p>Decreases the penalty from a second degree felony to a third degree felony (<i>R.C. 2917.211(H)(2)(b)</i>).</p> <p>No provision.</p> |

| Previous Version (As Introduced) | Latest Version (I_135_0364-8) |
|--|--|
| Nonconsensual creation of a fabricated sexual image | |
| No provision. | <p>Prohibits a person who, without the consent of the depicted person, in order to harass, extort, threaten, or cause physical, emotional, reputational, or economic harm to a person falsely depicted, from knowingly doing either of the following (<i>R.C. 2917.211(D)</i>):</p> <ol style="list-style-type: none"> 1. Creating a fabricated sexual image with intent to distribute; 2. Soliciting the creation of a fabricated sexual image with intent to distribute. |
| No provision. | <p>Specifies that a violation of the above-described prohibition is nonconsensual creation of a fabricated sexual image, a fourth degree felony (<i>R.C. 2917.211(H)(3)(a)</i>).</p> |
| No provision. | <p>Provides that if the offender was previously convicted of or pleaded guilty to nonconsensual creation of fabricated sexual images, a sexually oriented offense, or a child-victim oriented offense, nonconsensual creation of fabricated sexual images is a third degree felony (<i>R.C. 2917.211(H)(3)(b)</i>).</p> |