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**SENATE BILL 5105**

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**State of Washington**

**69th Legislature**

**2025 Regular Session**

**By** Senator Orwall

Prefiled 12/23/24.

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.

--- **END** ---