



State of Connecticut

DIVISION OF PUBLIC DEFENDER SERVICES

Office of Chief Public Defender

55 Farmington Avenue, 8th Floor
Hartford, Connecticut 06105
(860) 509-6405 Telephone
(860) 509-6495 Fax

Deborah Del Prete Sullivan

Legal Counsel, Director
deborah.d.sullivan@pds.ct.gov

Testimony of the Office of Chief Public Defender Jennifer Bourn, Chief of Legal Services

JUDICIARY COMMITTEE - MARCH 11, 2024

Raised Bill No. 5421

AN ACT CONCERNING UNLAWFUL DISSEMINATION OF INTIMATE IMAGES THAT ARE DIGITALLY ALTERED OR CREATED THROUGH THE USE OF ARTIFICIAL INTELLIGENCE

The Office of Chief Public Defender (OCPD) opposes *Raised H.B. 5421, An Act Concerning Unlawful Dissemination of Intimate Images That are Digitally Altered or Created Through the Use of Artificial Intelligence*, which expands liability for unlawful dissemination of an intimate image under *C.G.S. § 53a-189c, Unlawful dissemination of an intimate image: Class A misdemeanor or class D felony*, to include dissemination of “any digitally altered image or image created through the use of artificial intelligence that depicts the likeness of a person.” The proposed bill defines “likeness of a person” as “an image that closely resembles a living, identifiable person.” This raised bill would make it a felony to send a prohibited image to more than one person.

This Office opposes the raised bill because the definition of “likeness of a person” is too broad, resulting in the potential for First Amendment challenges, vagueness challenges, and uneven application of the law in terms of who gets prosecuted and for what.

If the intent of this raised bill is to criminalize the dissemination of an intimate, computer-generated image that cannot be distinguished from the real thing – in other words, one that can fool people into thinking the image is real when it is not – the raised bill goes far beyond that in problematic ways.

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Here are just a few examples of where this raised bill goes awry:

- Imagine a tenth-grader receiving a snap from a classmate of one of their teachers with fake breasts superimposed on the photo or they receive an image of a friend with an unusually-sized penis superimposed on their body. That teen may be said to have committed a felony under this raised bill if they forward those photos – even if clearly fake and not purporting to depict the real person’s body – to two friends.
- Imagine a news publication or blogger creating a computer-generated caricature of a political figure engaged in a sexual act as political commentary or humor. They may be said to have committed a felony under this raised bill, even though their work may be protected by the First Amendment.
- Imagine a person superimposing the head of their new partner over the nude body of a Playboy centerfold or the David to send to their friends as a way of bragging about how attractive their partner is. They have committed a felony under this bill because the head/face closely resembles a living, identifiable person even if a reasonable person can see that the bottom part of the photo does not purport to depict that person, or even any real person at all.
- Imagine a person creates and shows to more than two people an animated version of themselves and another real person engaging in sexual intercourse. The animated characters would likely closely resemble the real people, and, therefore, that person has committed a felony under this raised bill.

This Office has worked with Senator Looney’s office to address similar concerns with respect to *S.B. 2, An Act Concerning Artificial Intelligence*, a different raised bill, which also adds criminal liability under *C.G.S. § 53a-189c, Unlawful dissemination of an intimate image: Class A misdemeanor or class D felony*, for computer-generated images. This office requests that the Committee take no action on the bill as drafted. If the bill proceeds, this office would be happy to continue to work on language that would address the concerns raised.