

**Sixty-ninth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 7, 2025**

HOUSE BILL NO. 1386
(Representatives Christy, Bahl, Berg, Conmy, Grindberg, Hoverson, Mitskog, J. Olson)
(Senators Boschee, Myrdal, Sickler, Thomas)

AN ACT to amend and reenact sections 12.1-27.2-01 and 12.1-27.2-04.1 of the North Dakota Century Code, relating to a prohibition on possessing certain computer-generated images; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12.1-27.2-01 of the North Dakota Century Code is amended and reenacted as follows:

12.1-27.2-01. Definitions.

As used in this chapter:

1. "Computer-generated image" means an image or visual representation created through the use of artificial intelligence or other computer program.
2. "Minor" means an individual under eighteen years of age or a computer-generated image used, created, adapted, altered, or modified to appear to depict an individual under eighteen years of age by face, likeness, or other distinguishing characteristics.
3. "Obscene sexual performance" means any performance which includes sexual conduct by a minor in any obscene material or obscene performance, as defined in section 12.1-27.1-01.
- ~~2-4.~~ "Performance" means any play, motion picture, photograph, dance, or other visual representation, or any part of a performance.
- ~~3-5.~~ "Promote" means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, ship, transport, publish, distribute, circulate, disseminate, present, exhibit, or advertise.
- 4-6. "Sexual conduct" means actual or simulated:
 - a. Sexual intercourse;
 - b. Sodomy, as defined under section 12.1-27.1-01;
 - c. Sexual bestiality;
 - d. Masturbation;
 - e. Sadomasochistic abuse, as defined under section 12.1-27.1-01;
 - f. Lewd exhibition of the buttocks, breasts, or genitals;
 - g. Nude or partially denuded human figure, as defined in section 12.1-27.1-03.1, if depicted for the purpose of the sexual stimulation or the sexual gratification of any individual who may view such depiction; or
 - h. Physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or breasts. It is not necessary that the minor know that he or she is participating in the described conduct, or any aspect of it.

- ~~5-7.~~ "Sexual performance" means any performance which includes sexual conduct by a minor.
- ~~6-8.~~ "Simulated" means the explicit depiction of any of the conduct set forth in subsection 4 which creates the appearance of actual sexual conduct and which exhibits any nude or partially denuded human figure, as defined in section 12.1-27.1-03.1.

SECTION 2. AMENDMENT. Section 12.1-27.2-04.1 of the North Dakota Century Code is amended and reenacted as follows:

12.1-27.2-04.1. Possession of certain materials prohibited.

1. A person is guilty of a class C felony if, knowing of its character and content, that person knowingly possesses any motion picture, computer-generated image, photograph, or other visual representation that includes sexual conduct by a minor.
2. An individual violating this section is guilty of a class B felony if:
 - a. The offense involved twenty or more images;
 - b. The offense involved sadistic or masochistic conduct or other depictions of violence;
 - c. The offense involved sexual bestiality;
 - d. The offense involves a prepubescent minor or a minor under twelve years of age; or
 - e. The individual has previously been convicted of an offense subject to registration under section 12.1-32-15.
3. This section does not impose liability on the provider of an interactive computer service, as defined in 47 U.S.C. 230, or an internet service provider, cloud computer provider, cybersecurity provider, communication service provider, or information service or telecommunication service network, as defined in 47 U.S.C. 153, for any content provided by another person.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-ninth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1386.

House Vote: Yeas 92 Nays 2 Absent 0

Senate Vote: Yeas 46 Nays 0 Absent 1

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2025.

Approved at _____ M. on _____, 2025.

Governor

Filed in this office this _____ day of _____, 2025,

at _____ o'clock _____ M.

Secretary of State