House Bill 103 (COMMITTEE SUBSTITUTE)
By: Representatives Belton of the 112th, Dickerson of the 113th, Tanner of the 9th, Williams of the 119th, Peake of the 141st, and others

A BILL TO BE ENTITLED
AN ACT

To amend Article 2 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to offenses against public order, so as to prohibit any person from causing a minor to be identified as the individual in an obscene depiction; to provide for definitions; to provide for venue; to provide for exceptions; to provide for penalties; to provide for a short title; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

This Act shall be known and may be cited as "Kelsey's Law."

SECTION 2.

Article 2 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to offenses against public order, is amended by adding a new Code section to read as follows:

16-11-40.1. (a) As used in this Code section, the term:

(1) 'Minor' means an individual who is under the age of 18 years.

(2) 'Nudity' shall have the same meaning as set forth in Code Section 16-11-90.

(3) 'Obscene depiction' means a visual depiction of an individual displaying nudity or sexually explicit conduct.

(4) 'Sexually explicit conduct' shall have the same meaning as set forth in Code Section 16-12-100.

(b) No person shall intentionally cause a minor to be identified as the individual in an obscene depiction in such a manner that a reasonable person would conclude that the image depicted was that of such minor. Such identification shall include, without limitation, the minor's name, address, telephone number, e-mail address, username, or other electronic identification. Such identification shall also include the electronic imposing of the facial image of a minor onto an obscene depiction.
(c) Any person convicted of violating this Code section shall be guilty of a misdemeanor; provided, however, that upon a second or subsequent violation of this Code section, he or she shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment of not less than one nor more than five years, a fine of not more than $100,000.00, or both.

(d) A person shall be subject to prosecution in this state pursuant to Code Section 17-2-1 for any conduct made unlawful by this Code section in which such person engages while:

(1) Either within or outside of this state if, by such conduct, the person commits a violation of this Code section which involves an individual who resides in this state; or

(2) Within this state if, by such conduct, the person commits a violation of this Code section which involves an individual who resides within or outside this state.

(e) The provisions of subsection (b) of this Code section shall not apply to:

(1) The activities of law enforcement and prosecution agencies in the investigation and prosecution of criminal offenses; or

(2) An image and identification made pursuant to or in anticipation of a civil action.

(f) Any violation of this Code section shall constitute a separate offense and shall not merge with any other crimes set forth in this title."

SECTION 3.

All laws and parts of laws in conflict with this Act are repealed.