

# SB1567



## 104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB1567

Introduced 2/4/2025, by Sen. Sally J. Turner

### SYNOPSIS AS INTRODUCED:

720 ILCS 5/11-20.1

from Ch. 38, par. 11-20.1

Amends the Criminal Code of 2012 concerning child pornography. Provides that if the creator of the images or materials is a minor and the sole subject of the depiction, the minor is not subject to criminal penalties under the statute. Deletes provision that "child pornography" does not include images or materials in which the creator of the image or materials is the sole subject of the depiction. Effective immediately.

LRB104 07070 RLC 17107 b

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 2012 is amended by  
5 changing Section 11-20.1 as follows:

6 (720 ILCS 5/11-20.1) (from Ch. 38, par. 11-20.1)

7 Sec. 11-20.1. Child pornography.

8 (a) A person commits child pornography who:

9 (1) films, videotapes, photographs, or otherwise  
10 depicts or portrays by means of any similar visual medium  
11 or reproduction or depicts by computer any child whom he  
12 or she knows or reasonably should know to be under the age  
13 of 18 or any person with a severe or profound intellectual  
14 disability where such child or person with a severe or  
15 profound intellectual disability is:

16 (i) actually or by simulation engaged in any act  
17 of sexual penetration or sexual conduct with any  
18 person or animal; or

19 (ii) actually or by simulation engaged in any act  
20 of sexual penetration or sexual conduct involving the  
21 sex organs of the child or person with a severe or  
22 profound intellectual disability and the mouth, anus,  
23 or sex organs of another person or animal; or which

1 involves the mouth, anus or sex organs of the child or  
2 person with a severe or profound intellectual  
3 disability and the sex organs of another person or  
4 animal; or

5 (iii) actually or by simulation engaged in any act  
6 of masturbation; or

7 (iv) actually or by simulation portrayed as being  
8 the object of, or otherwise engaged in, any act of lewd  
9 fondling, touching, or caressing involving another  
10 person or animal; or

11 (v) actually or by simulation engaged in any act  
12 of excretion or urination within a sexual context; or

13 (vi) actually or by simulation portrayed or  
14 depicted as bound, fettered, or subject to sadistic,  
15 masochistic, or sadomasochistic abuse in any sexual  
16 context; or

17 (vii) depicted or portrayed in any pose, posture  
18 or setting involving a lewd exhibition of the  
19 unclothed or transparently clothed genitals, pubic  
20 area, buttocks, or, if such person is female, a fully  
21 or partially developed breast of the child or other  
22 person; or

23 (2) with the knowledge of the nature or content  
24 thereof, reproduces, disseminates, offers to disseminate,  
25 exhibits or possesses with intent to disseminate any film,  
26 videotape, photograph or other similar visual reproduction

1 or depiction by computer of any child or person with a  
2 severe or profound intellectual disability whom the person  
3 knows or reasonably should know to be under the age of 18  
4 or to be a person with a severe or profound intellectual  
5 disability, engaged in any activity described in  
6 subparagraphs (i) through (vii) of paragraph (1) of this  
7 subsection; or

8 (3) with knowledge of the subject matter or theme  
9 thereof, produces any stage play, live performance, film,  
10 videotape or other similar visual portrayal or depiction  
11 by computer which includes a child whom the person knows  
12 or reasonably should know to be under the age of 18 or a  
13 person with a severe or profound intellectual disability  
14 engaged in any activity described in subparagraphs (i)  
15 through (vii) of paragraph (1) of this subsection; or

16 (4) solicits, uses, persuades, induces, entices, or  
17 coerces any child whom he or she knows or reasonably  
18 should know to be under the age of 18 or a person with a  
19 severe or profound intellectual disability to appear in  
20 any stage play, live presentation, film, videotape,  
21 photograph or other similar visual reproduction or  
22 depiction by computer in which the child or person with a  
23 severe or profound intellectual disability is or will be  
24 depicted, actually or by simulation, in any act, pose or  
25 setting described in subparagraphs (i) through (vii) of  
26 paragraph (1) of this subsection; or

1           (5) is a parent, step-parent, legal guardian or other  
2 person having care or custody of a child whom the person  
3 knows or reasonably should know to be under the age of 18  
4 or a person with a severe or profound intellectual  
5 disability and who knowingly permits, induces, promotes,  
6 or arranges for such child or person with a severe or  
7 profound intellectual disability to appear in any stage  
8 play, live performance, film, videotape, photograph or  
9 other similar visual presentation, portrayal or simulation  
10 or depiction by computer of any act or activity described  
11 in subparagraphs (i) through (vii) of paragraph (1) of  
12 this subsection; or

13           (6) with knowledge of the nature or content thereof,  
14 possesses any film, videotape, photograph or other similar  
15 visual reproduction or depiction by computer of any child  
16 or person with a severe or profound intellectual  
17 disability whom the person knows or reasonably should know  
18 to be under the age of 18 or to be a person with a severe  
19 or profound intellectual disability, engaged in any  
20 activity described in subparagraphs (i) through (vii) of  
21 paragraph (1) of this subsection; or

22           (7) solicits, or knowingly uses, persuades, induces,  
23 entices, or coerces, a person to provide a child under the  
24 age of 18 or a person with a severe or profound  
25 intellectual disability to appear in any videotape,  
26 photograph, film, stage play, live presentation, or other

1 similar visual reproduction or depiction by computer in  
2 which the child or person with a severe or profound  
3 intellectual disability will be depicted, actually or by  
4 simulation, in any act, pose, or setting described in  
5 subparagraphs (i) through (vii) of paragraph (1) of this  
6 subsection.

7 (a-5) The possession of each individual film, videotape,  
8 photograph, or other similar visual reproduction or depiction  
9 by computer in violation of this Section constitutes a single  
10 and separate violation. This subsection (a-5) does not apply  
11 to multiple copies of the same film, videotape, photograph, or  
12 other similar visual reproduction or depiction by computer  
13 that are identical to each other.

14 (b) (1) It shall be an affirmative defense to a charge of  
15 child pornography that the defendant reasonably believed,  
16 under all of the circumstances, that the child was 18 years of  
17 age or older or that the person was not a person with a severe  
18 or profound intellectual disability but only where, prior to  
19 the act or acts giving rise to a prosecution under this  
20 Section, he or she took some affirmative action or made a  
21 bonafide inquiry designed to ascertain whether the child was  
22 18 years of age or older or that the person was not a person  
23 with a severe or profound intellectual disability and his or  
24 her reliance upon the information so obtained was clearly  
25 reasonable.

26 (1.5) Telecommunications carriers, commercial mobile

1 service providers, and providers of information services,  
2 including, but not limited to, Internet service providers and  
3 hosting service providers, are not liable under this Section  
4 by virtue of the transmission, storage, or caching of  
5 electronic communications or messages of others or by virtue  
6 of the provision of other related telecommunications,  
7 commercial mobile services, or information services used by  
8 others in violation of this Section.

9 (2) (Blank).

10 (3) The charge of child pornography shall not apply to the  
11 performance of official duties by law enforcement or  
12 prosecuting officers or persons employed by law enforcement or  
13 prosecuting agencies, court personnel or attorneys, nor to  
14 bonafide treatment or professional education programs  
15 conducted by licensed physicians, psychologists or social  
16 workers. In any criminal proceeding, any property or material  
17 that constitutes child pornography shall remain in the care,  
18 custody, and control of either the State or the court. A motion  
19 to view the evidence shall comply with subsection (e-5) of  
20 this Section.

21 (4) If the defendant possessed more than one of the same  
22 film, videotape or visual reproduction or depiction by  
23 computer in which child pornography is depicted, then the  
24 trier of fact may infer that the defendant possessed such  
25 materials with the intent to disseminate them.

26 (5) The charge of child pornography does not apply to a

1 person who does not voluntarily possess a film, videotape, or  
2 visual reproduction or depiction by computer in which child  
3 pornography is depicted. Possession is voluntary if the  
4 defendant knowingly procures or receives a film, videotape, or  
5 visual reproduction or depiction for a sufficient time to be  
6 able to terminate his or her possession.

7 (6) Any violation of paragraph (1), (2), (3), (4), (5), or  
8 (7) of subsection (a) that includes a child engaged in,  
9 solicited for, depicted in, or posed in any act of sexual  
10 penetration or bound, fettered, or subject to sadistic,  
11 masochistic, or sadomasochistic abuse in a sexual context  
12 shall be deemed a crime of violence.

13 (c) If the violation does not involve a film, videotape,  
14 or other moving depiction, a violation of paragraph (1), (4),  
15 (5), or (7) of subsection (a) is a Class 1 felony with a  
16 mandatory minimum fine of \$2,000 and a maximum fine of  
17 \$100,000. If the violation involves a film, videotape, or  
18 other moving depiction, a violation of paragraph (1), (4),  
19 (5), or (7) of subsection (a) is a Class X felony with a  
20 mandatory minimum fine of \$2,000 and a maximum fine of  
21 \$100,000. If the violation does not involve a film, videotape,  
22 or other moving depiction, a violation of paragraph (3) of  
23 subsection (a) is a Class 1 felony with a mandatory minimum  
24 fine of \$1500 and a maximum fine of \$100,000. If the violation  
25 involves a film, videotape, or other moving depiction, a  
26 violation of paragraph (3) of subsection (a) is a Class X

1 felony with a mandatory minimum fine of \$1500 and a maximum  
2 fine of \$100,000. If the violation does not involve a film,  
3 videotape, or other moving depiction, a violation of paragraph  
4 (2) of subsection (a) is a Class 1 felony with a mandatory  
5 minimum fine of \$1000 and a maximum fine of \$100,000. If the  
6 violation involves a film, videotape, or other moving  
7 depiction, a violation of paragraph (2) of subsection (a) is a  
8 Class X felony with a mandatory minimum fine of \$1000 and a  
9 maximum fine of \$100,000. If the violation does not involve a  
10 film, videotape, or other moving depiction, a violation of  
11 paragraph (6) of subsection (a) is a Class 3 felony with a  
12 mandatory minimum fine of \$1000 and a maximum fine of  
13 \$100,000. If the violation involves a film, videotape, or  
14 other moving depiction, a violation of paragraph (6) of  
15 subsection (a) is a Class 2 felony with a mandatory minimum  
16 fine of \$1000 and a maximum fine of \$100,000.

17 (c-5) Where the child depicted is under the age of 13, a  
18 violation of paragraph (1), (2), (3), (4), (5), or (7) of  
19 subsection (a) is a Class X felony with a mandatory minimum  
20 fine of \$2,000 and a maximum fine of \$100,000. Where the child  
21 depicted is under the age of 13, a violation of paragraph (6)  
22 of subsection (a) is a Class 2 felony with a mandatory minimum  
23 fine of \$1,000 and a maximum fine of \$100,000. Where the child  
24 depicted is under the age of 13, a person who commits a  
25 violation of paragraph (1), (2), (3), (4), (5), or (7) of  
26 subsection (a) where the defendant has previously been

1 convicted under the laws of this State or any other state of  
2 the offense of child pornography, aggravated child  
3 pornography, aggravated criminal sexual abuse, aggravated  
4 criminal sexual assault, predatory criminal sexual assault of  
5 a child, or any of the offenses formerly known as rape, deviate  
6 sexual assault, indecent liberties with a child, or aggravated  
7 indecent liberties with a child where the victim was under the  
8 age of 18 years or an offense that is substantially equivalent  
9 to those offenses, is guilty of a Class X felony for which the  
10 person shall be sentenced to a term of imprisonment of not less  
11 than 9 years with a mandatory minimum fine of \$2,000 and a  
12 maximum fine of \$100,000. Where the child depicted is under  
13 the age of 13, a person who commits a violation of paragraph  
14 (6) of subsection (a) where the defendant has previously been  
15 convicted under the laws of this State or any other state of  
16 the offense of child pornography, aggravated child  
17 pornography, aggravated criminal sexual abuse, aggravated  
18 criminal sexual assault, predatory criminal sexual assault of  
19 a child, or any of the offenses formerly known as rape, deviate  
20 sexual assault, indecent liberties with a child, or aggravated  
21 indecent liberties with a child where the victim was under the  
22 age of 18 years or an offense that is substantially equivalent  
23 to those offenses, is guilty of a Class 1 felony with a  
24 mandatory minimum fine of \$1,000 and a maximum fine of  
25 \$100,000. The issue of whether the child depicted is under the  
26 age of 13 is an element of the offense to be resolved by the

1 trier of fact.

2 (d) If a person is convicted of a second or subsequent  
3 violation of this Section within 10 years of a prior  
4 conviction, the court shall order a presentence psychiatric  
5 examination of the person. The examiner shall report to the  
6 court whether treatment of the person is necessary.

7 (e) Any film, videotape, photograph or other similar  
8 visual reproduction or depiction by computer which includes a  
9 child under the age of 18 or a person with a severe or profound  
10 intellectual disability engaged in any activity described in  
11 subparagraphs (i) through (vii) or paragraph 1 of subsection  
12 (a), and any material or equipment used or intended for use in  
13 photographing, filming, printing, producing, reproducing,  
14 manufacturing, projecting, exhibiting, depiction by computer,  
15 or disseminating such material shall be seized and forfeited  
16 in the manner, method and procedure provided by Section 36-1  
17 of this Code for the seizure and forfeiture of vessels,  
18 vehicles and aircraft.

19 In addition, any person convicted under this Section is  
20 subject to the property forfeiture provisions set forth in  
21 Article 124B of the Code of Criminal Procedure of 1963.

22 (e-5) Upon the conclusion of a case brought under this  
23 Section, the court shall seal all evidence depicting a victim  
24 or witness that is sexually explicit. The evidence may be  
25 unsealed and viewed, on a motion of the party seeking to unseal  
26 and view the evidence, only for good cause shown and in the

1 discretion of the court. The motion must expressly set forth  
2 the purpose for viewing the material. The State's attorney and  
3 the victim, if possible, shall be provided reasonable notice  
4 of the hearing on the motion to unseal the evidence. Any person  
5 entitled to notice of a hearing under this subsection (e-5)  
6 may object to the motion.

7 (f) Definitions. For the purposes of this Section:

8 (1) "Disseminate" means (i) to sell, distribute,  
9 exchange or transfer possession, whether with or without  
10 consideration or (ii) to make a depiction by computer  
11 available for distribution or downloading through the  
12 facilities of any telecommunications network or through  
13 any other means of transferring computer programs or data  
14 to a computer.

15 (2) "Produce" means to direct, promote, advertise,  
16 publish, manufacture, issue, present or show.

17 (3) "Reproduce" means to make a duplication or copy.

18 (4) "Depict by computer" means to generate or create,  
19 or cause to be created or generated, a computer program or  
20 data that, after being processed by a computer either  
21 alone or in conjunction with one or more computer  
22 programs, results in a visual depiction on a computer  
23 monitor, screen, or display.

24 (5) "Depiction by computer" means a computer program  
25 or data that, after being processed by a computer either  
26 alone or in conjunction with one or more computer

1 programs, results in a visual depiction on a computer  
2 monitor, screen, or display.

3 (6) "Computer", "computer program", and "data" have  
4 the meanings ascribed to them in Section 17.05 of this  
5 Code.

6 (7) For the purposes of this Section, "child  
7 pornography" includes a film, videotape, photograph, or  
8 other similar visual medium or reproduction or depiction  
9 by computer that is, or appears to be, that of a person,  
10 either in part, or in total, under the age of 18 or a  
11 person with a severe or profound intellectual disability,  
12 regardless of the method by which the film, videotape,  
13 photograph, or other similar visual medium or reproduction  
14 or depiction by computer is created, adopted, or modified  
15 to appear as such. "Child pornography" also includes a  
16 film, videotape, photograph, or other similar visual  
17 medium or reproduction or depiction by computer that is  
18 advertised, promoted, presented, described, or distributed  
19 in such a manner that conveys the impression that the  
20 film, videotape, photograph, or other similar visual  
21 medium or reproduction or depiction by computer is of a  
22 person under the age of 18 or a person with a severe or  
23 profound intellectual disability. "Child pornography"  
24 includes the depiction of a part of an actual child under  
25 the age of 18 who, by manipulation, creation, or  
26 modification, appears to be engaged in any activity

1 described in subparagraphs (i) through (vii) of paragraph  
2 (1) of subsection (a). If the creator of the images or  
3 materials is a minor and the sole subject of the  
4 depiction, the minor is not subject to criminal penalties  
5 under this Section "Child pornography" does not include  
6 images or materials in which the creator of the image or  
7 materials is the sole subject of the depiction.

8 (g) Re-enactment; findings; purposes.

9 (1) The General Assembly finds and declares that:

10 (i) Section 50-5 of Public Act 88-680, effective  
11 January 1, 1995, contained provisions amending the  
12 child pornography statute, Section 11-20.1 of the  
13 Criminal Code of 1961. Section 50-5 also contained  
14 other provisions.

15 (ii) In addition, Public Act 88-680 was entitled  
16 "AN ACT to create a Safe Neighborhoods Law". (A)  
17 Article 5 was entitled JUVENILE JUSTICE and amended  
18 the Juvenile Court Act of 1987. (B) Article 15 was  
19 entitled GANGS and amended various provisions of the  
20 Criminal Code of 1961 and the Unified Code of  
21 Corrections. (C) Article 20 was entitled ALCOHOL ABUSE  
22 and amended various provisions of the Illinois Vehicle  
23 Code. (D) Article 25 was entitled DRUG ABUSE and  
24 amended the Cannabis Control Act and the Illinois  
25 Controlled Substances Act. (E) Article 30 was entitled  
26 FIREARMS and amended the Criminal Code of 1961 and the

1 Code of Criminal Procedure of 1963. (F) Article 35  
2 amended the Criminal Code of 1961, the Rights of Crime  
3 Victims and Witnesses Act, and the Unified Code of  
4 Corrections. (G) Article 40 amended the Criminal Code  
5 of 1961 to increase the penalty for compelling  
6 organization membership of persons. (H) Article 45  
7 created the Secure Residential Youth Care Facility  
8 Licensing Act and amended the State Finance Act, the  
9 Juvenile Court Act of 1987, the Unified Code of  
10 Corrections, and the Private Correctional Facility  
11 Moratorium Act. (I) Article 50 amended the WIC Vendor  
12 Management Act, the Firearm Owners Identification Card  
13 Act, the Juvenile Court Act of 1987, the Criminal Code  
14 of 1961, the Wrongs to Children Act, and the Unified  
15 Code of Corrections.

16 (iii) On September 22, 1998, the Third District  
17 Appellate Court in *People v. Dainty*, 701 N.E. 2d 118,  
18 ruled that Public Act 88-680 violates the single  
19 subject clause of the Illinois Constitution (Article  
20 IV, Section 8 (d)) and was unconstitutional in its  
21 entirety. As of the time this amendatory Act of 1999  
22 was prepared, *People v. Dainty* was still subject to  
23 appeal.

24 (iv) Child pornography is a vital concern to the  
25 people of this State and the validity of future  
26 prosecutions under the child pornography statute of

1 the Criminal Code of 1961 is in grave doubt.

2 (2) It is the purpose of this amendatory Act of 1999 to  
3 prevent or minimize any problems relating to prosecutions  
4 for child pornography that may result from challenges to  
5 the constitutional validity of Public Act 88-680 by  
6 re-enacting the Section relating to child pornography that  
7 was included in Public Act 88-680.

8 (3) This amendatory Act of 1999 re-enacts Section  
9 11-20.1 of the Criminal Code of 1961, as it has been  
10 amended. This re-enactment is intended to remove any  
11 question as to the validity or content of that Section; it  
12 is not intended to supersede any other Public Act that  
13 amends the text of the Section as set forth in this  
14 amendatory Act of 1999. The material is shown as existing  
15 text (i.e., without underscoring) because, as of the time  
16 this amendatory Act of 1999 was prepared, People v. Dainty  
17 was subject to appeal to the Illinois Supreme Court.

18 (4) The re-enactment by this amendatory Act of 1999 of  
19 Section 11-20.1 of the Criminal Code of 1961 relating to  
20 child pornography that was amended by Public Act 88-680 is  
21 not intended, and shall not be construed, to imply that  
22 Public Act 88-680 is invalid or to limit or impair any  
23 legal argument concerning whether those provisions were  
24 substantially re-enacted by other Public Acts.

25 (Source: P.A. 102-567, eff. 1-1-22; 103-825, eff. 1-1-25.)

26 Section 99. Effective date. This Act takes effect upon

1 becoming law.