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LD 524

Good afternoon distinguished members of the Committee. Thank you for the opportunity to testify on this important legislation to combat AI-generated child sexual abuse material and non-consensual image manipulation. I strongly support the bill's core objective and would like to offer several respectful suggestions for improvement as well as a potential draft at the end of this testimony.

While the bill is child-focused and technically sound in many respects, a few refinements could close gaps, enhance enforceability, and withstand constitutional scrutiny.

#### Subjective Obscenity Requirement for Non-Identifiable Synthetic CSAM

Criminalizing non-identifiable AI-generated CSAM only when it is "obscene" This risks inconsistent prosecutions; courts may classify some harmful images as "artistic" or non-prurient, even when they normalize child exploitation.

I recommend we presume that any AI-generated depiction of a minor in sexually explicit conduct is obscene, or remove the obscenity requirement entirely—mirroring federal law.

#### Narrow Focus Excluding Adult Victims

Unlike earlier drafts of LD 1944, the bill omits protections for adults against non-consensual AI "undressing" or deepfakes.

I recommend we amend to extend parallel protections to adults, ensuring the law addresses the full spectrum of technology-facilitated image-based abuse.

#### Enforcement and Practical Challenges

The bill lacks provisions for detecting AI-generated material (e.g., forensic tools, mandatory watermarking) or training law enforcement—despite Maine's documented gaps in investigating morphed CSAM as of September 2025. It also imposes no reporting or removal obligations on AI providers or social-media platforms.

I recommend we appropriate funding for AI-detection technology and require platforms to report and remove CSAM, consistent with federal NCMEC mandates.

#### Absence of Victim-Centered Remedies

Identifiable child victims receive no statutory path to restitution, counseling, or court-ordered content removal.

I recommend we mandate restitution under 17-A MRSA §1174 and authorize takedown orders to mitigate ongoing harm.

#### Potential Constitutional Vulnerabilities

Broad evidentiary inferences for age and identifiability aid prosecution but risk overreach without clear harm-based limits, potentially conflicting with Ashcroft v. Free Speech Coalition (2002).

I recommend explicitly tying restrictions to demonstrable harm (e.g., psychological impact on minors or societal normalization of exploitation) and narrowly tailor exemptions. Add bill verbiage to fund studies on how Non-Identifiable Synthetic CSAM increases risk of real harm occurring so that evidence exists in the event of a legal challenge.

#### Minor Drafting Inconsistencies

Age references shift between "<16" and "<12" without seamless integration and the possession-threshold inference was raised 100 images which feels too high.

With some modest refinements, the bill can become a national model—closing loopholes, protecting both children and adults, and ensuring constitutional resilience. I urge the Committee to incorporate these suggestions and pass an even stronger measure. Thank you again for your time and dedication to keeping Maine families safe.

Here is my proposed draft in hopes that it may be of some help in drafting of this law: An Act to Prohibit the Non-Consensual Creation, Dissemination, and Facilitation of

## AI-Generated Explicit Imagery and AI Clothing Removal Technology

Be it enacted by the People of the State of Maine as follows:

Sec. 1. Title 17-A, Maine Revised Statutes, Chapter 12, is amended by adding a new section to read:

### § 513-B. Non-Consensual Creation, Dissemination, and Facilitation of AI-Generated Explicit Imagery and AI Clothing Removal Technology

#### 1. Definitions

As used in this section, unless the context otherwise indicates, the following terms have the following meanings:

A. "AI-generated explicit imagery" means any visual depiction, including photographs, videos, or digital renderings, created, altered, or manipulated using artificial intelligence or machine learning technology to depict an identifiable individual in a sexually explicit manner, including nudity, partial nudity, or sexual acts, regardless of whether the depiction is based on real or fabricated source material.

B. "AI clothing removal technology" means any software, algorithm, or artificial intelligence system designed to:

(1) Digitally remove clothing from images or videos of real individuals without their consent; or

(2) Generate images or videos that depict individuals in a state of undress without their consent.

C. "Non-consensual" means without the explicit, informed, and voluntary consent of the individual depicted, obtained prior to the creation or dissemination of the imagery.

D. "Disseminate" means to publish, share, distribute, sell, or otherwise make available to another person or entity, including through electronic means such as the internet, social media, or digital platforms.

E. "Facilitating platform" means any entity, including a corporation, partnership, or individual, that operates an online service, application, or website and knowingly permits the advertisement, distribution, or sale of AI-generated explicit imagery, AI clothing removal technology, or tools designed to create such imagery without consent.

F. "Identifiable individual" means a person who can be recognized, directly or indirectly, by reference to their likeness, name, or other personal characteristics in the imagery.

G. "Minor" means an individual under 18 years of age.

#### 2. Offenses

A person or entity commits the crime of non-consensual creation, dissemination, or facilitation of AI-generated explicit imagery or AI clothing removal technology if the person or entity:

A. Knowingly develops, programs, or creates AI clothing removal technology;

B. Knowingly creates, alters, or generates AI-generated explicit imagery of an identifiable individual without their consent;

C. Knowingly disseminates AI-generated explicit imagery of an identifiable individual without their consent;

D. Knowingly possesses AI-generated explicit imagery of an identifiable individual with intent to disseminate without their consent;

E. Knowingly advertises, sells, or distributes tools, software, or services specifically designed to create AI-generated explicit imagery or AI clothing removal technology without mechanisms to ensure consent of depicted individuals; or

F. Knowingly facilitates, through a platform, the advertisement, distribution, or sale of AI-generated explicit imagery or AI clothing removal technology without consent.

#### 3. Penalties for Individuals

A. A violation of subsection 2, paragraph A, B, C, D, or E is a Class B crime, punishable by:

(1) Imprisonment for up to 7 years;

(2) A fine of up to \$20,000; and

(3) Restitution to the victim for emotional distress, reputational harm, and any related costs, as determined by the court.

B. If the violation involves an identifiable individual who is a minor, the offense is a

Class A crime, punishable by:

- (1) Imprisonment for up to 30 years;
- (2) A fine of up to \$50,000; and
- (3) Restitution as described in paragraph A, subparagraph (3).

C. If the violation is committed with intent to harass, intimidate, or extort the identifiable individual, or results in substantial harm to the individual's reputation, employment, or safety, the offense is aggravated, and the court shall impose an additional mandatory minimum sentence of 2 years imprisonment, not subject to suspension or probation.

D. A second or subsequent violation of this section is a Class A crime, regardless of the age of the victim, with penalties as described in paragraph B.

#### 4. Penalties for Facilitating Platforms and Companies

A. A facilitating platform or company that violates subsection 2, paragraph F, is subject to the following penalties:

- (1) A fine of up to \$250,000 per violation, with each instance of advertisement, distribution, or sale constituting a separate violation;
- (2) Revocation of business licenses;
- (3) Mandatory audits to ensure compliance with this Act; and
- (4) Restitution to victims for harm caused by the platform's actions, as determined by the court.

B. If the platform's actions involve imagery of a minor, the fine increases to \$500,000 per violation.

C. A platform that fails to remove reported AI-generated explicit imagery or AI clothing removal technology within 48 hours of receiving notice from a victim or law enforcement is subject to a civil penalty of \$10,000 per day of non-compliance, enforceable by the Attorney General.

#### 5. Platform and Developer Duties

a. AI developers and online platforms shall:

- 1 Implement content provenance (e.g., watermarking, metadata, or cryptographic signing) for AI-generated media where technically feasible;
- 2 Report suspected CSAM (real or synthetic) to the National Center for Missing and Exploited Children (NCMEC) within 24 hours;
- 3 Maintain removal logs subject to audit by the Attorney General; and
- 4 Provide annual compliance reports to the Attorney General.

B. Failure to comply with subsection 5(A) is punishable by civil penalties of up to \$50,000 per violation.

#### 6. Affirmative Defenses

It is an affirmative defense to prosecution under this section that:

- A. The identifiable individual provided explicit, informed, and voluntary consent to the creation and dissemination of the imagery; or
- B. The imagery was created and used solely for legitimate artistic, educational, or journalistic purposes, as determined by the court, and did not cause harm to the identifiable individual.

#### 7. Victim Protections

A. The identity of a victim of a violation of this section shall be protected in accordance with Title 5, section 9057, and court proceedings involving such imagery shall be conducted in a manner to minimize further harm to the victim.

B. Victims may bring a civil action against violators for damages, including emotional distress, reputational harm, and punitive damages, regardless of criminal prosecution.

#### 8. Forfeiture

Any equipment, software, or proceeds used in or derived from a violation of this section are subject to forfeiture under Title 15, section 5821.

#### 9. Enforcement

A. The Attorney General shall enforce this Act and may bring an action in court to enjoin any violation.

B. A task force shall be established to monitor and investigate violations of this Act, consisting of representatives from the Attorney General's office, law enforcement

agencies, and relevant technology experts.

C. Tech companies and online platforms shall implement reasonable measures to detect and remove content created using AI clothing removal technology or AI-generated explicit imagery. Failure to do so may result in penalties as specified in subsection 4.

#### 10. Exceptions

The prohibitions in subsection 2 do not apply to:

- A. Law enforcement agencies using AI technology for legitimate investigative purposes, provided that such use is authorized by a court order.
- B. Medical professionals using AI technology for diagnostic or treatment purposes, with the patient's consent.

#### 11. Applicability

This Act applies to any person or entity that:

- A. Is located in the State of Maine; or
- B. Engages in conduct that affects residents of the State of Maine.

#### 12. Severability

If any provision of this section is found to be unconstitutional or otherwise invalid, the remaining provisions shall remain in full force and effect.

#### Sec. 2. Appropriation

There is appropriated from the General Fund the following sums for the fiscal year ending June 30, 2026:

- A. To the Department of the Attorney General, \$500,000 to support the investigation and prosecution of violations of this Act, including training for law enforcement and victim support services.
- B. To the University of Maine System, \$750,000 to fund independent, peer-reviewed scientific studies, conducted by qualified researchers in psychology, criminology, and related fields, specifically examining:
  - (1) Whether non-identifiable synthetic CSAM causes psychological, emotional, or societal harm to minors or the general public; and
  - (2) Whether possession, creation, or dissemination of non-identifiable synthetic CSAM increases the likelihood of real child sexual abuse or exploitation occurring. Such studies shall be designed to produce empirical, replicable evidence and shall include longitudinal analyses where feasible. Results shall be published publicly within 24 months of funding allocation and submitted to the Maine Legislature and the Attorney General. If conclusive evidence of harm or increased risk is found, the Legislature may amend this Act to extend prohibitions to non-identifiable synthetic CSAM.

#### Sec. 3. Effective Date

This Act takes effect 90 days after the adjournment of the Second Regular Session of the Maine Legislature convening in January.