

South Australia

# Summary Offences (Humiliating, Degrading or Invasive Depictions) Amendment Act 2025

An Act to amend the *Summary Offences Act 1953*.

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**The Parliament of South Australia enacts as follows:**

## Part 1—Preliminary

### 1—Short title

This Act may be cited as the *Summary Offences (Humiliating, Degrading or Invasive Depictions) Amendment Act 2025*.

### 2—Commencement

This Act comes into operation on a day to be fixed by proclamation.

## Part 2—Amendment of *Summary Offences Act 1953*

### 3—Insertion of Part 5B

After section 26E insert:

#### **Part 5B—Offences related to certain artificially generated depictions**

##### **26F—Interpretation**

(1) In this Part—

***artificially generated content*** means audiovisual, visual, or audio content that—

- (a) is generated wholly by artificial intelligence; or
- (b) is created by a person or persons solely using digital technology,

but does not include content that consists of or incorporates an image within the meaning of Part 5A;

***depiction*** includes an audiovisual, audio or visual depiction of a real person;

***distribute*** has the same meaning as in Part 5A;

***humiliating or degrading depiction***, in relation to a simulated person, means artificially generated content depicting—

- (a) an assault or other act of violence done by or against the simulated person; or
- (b) an act done by or against the simulated person that reasonable adult members of the community would, were the act to be done by or against a real person, consider to be humiliating or degrading to the real person (but does not include an act that reasonable adult members of the community would consider to cause only minor or moderate embarrassment);

***invasive depiction***, in relation to a simulated person, means artificially generated content depicting—

- (a) the simulated person in a state of undress such that—
  - (i) in the case of a simulated female person—the bare breasts are visible; or
  - (ii) in any case—the bare genital or anal region is visible; or
- (b) the simulated person performing a private act,

however, a depiction of a simulated person that falls within the standards of morality, decency and propriety generally accepted by reasonable adults in the community will not be taken to be an invasive depiction;

***private act*** means—

- (a) a sexual act; or
- (b) an act carried out in a sexual manner; or
- (c) urinating or defecating;

***simulated person*** means a person depicted in artificially generated content that—

- (a) purports to be a depiction of a particular real person; or
  - (b) so closely resembles a depiction of a particular real person that a reasonable person who knew the real person would consider it likely to be a depiction of the real person.
- (2) For the purposes of this Part, a reference to the breasts, or genital or anal region, of a person, or a reference to an actual place, act or item, will, in the case of artificially generated content, be taken to include a reference to an artificial depiction of those things.

### **26G—Creation of humiliating, degrading or invasive depiction**

- (1) A person who creates a humiliating or degrading depiction of a simulated person is guilty of an offence.

Maximum penalty: \$10 000 or imprisonment for 2 years.

- (2) A person who creates an invasive depiction of a simulated person is guilty of an offence.

Maximum penalty:

- (a) if the simulated person purports to be a real person who is under the age of 17 years—\$20 000 or imprisonment for 4 years;
  - (b) in any other case—\$10 000 or imprisonment for 2 years.
- (3) It is a defence to a charge of an offence against this section to prove that the creation of the humiliating or degrading depiction or invasive depiction (as the case may be) occurred with the written consent of each real person depicted in the depiction.

### **26H—Distribution of humiliating, degrading or invasive depiction**

- (1) A person who distributes a humiliating or degrading depiction of a simulated person is guilty of an offence.

Maximum penalty: Imprisonment for 1 year.

- (2) A person who distributes an invasive depiction of a simulated person is guilty of an offence.

Maximum penalty:

- (a) if the simulated person purports to be a real person who is under the age of 17 years—\$20 000 or imprisonment for 4 years;
  - (b) in any other case—\$10 000 or imprisonment for 2 years.
- (3) It is a defence to a charge of an offence against this section to prove that the distribution of the humiliating or degrading depiction or invasive depiction (as the case may be) occurred with the written consent of each real person depicted in the depiction.
- (4) No offence is committed against this section—
  - (a) by law enforcement personnel and legal practitioners, or their agents, acting in the course of law enforcement or legal proceedings; or
  - (b) by reason of the distribution of artificially generated content that constitutes, or forms part of, a work of artistic merit if, having regard to the artistic nature and purposes of the work as a whole, there is no undue emphasis on aspects of the work that might otherwise be considered to be a humiliating or degrading depiction or an invasive depiction (as the case may be) of a simulated person.

## **26I—Threat to distribute humiliating, degrading or invasive depiction**

- (1) A person who—
  - (a) threatens to distribute a humiliating or degrading depiction of a simulated person; and
  - (b) intends to arouse a fear that the threat will be, or is likely to be, carried out, or is recklessly indifferent as to whether such a fear is aroused,

is guilty of an offence.

Maximum penalty: \$5 000 or imprisonment for 1 year.

- (2) A person who—
  - (a) threatens to distribute an invasive depiction of a simulated person; and
  - (b) intends to arouse a fear that the threat will be, or is likely to be, carried out, or is recklessly indifferent as to whether such a fear is aroused,

is guilty of an offence.

Maximum penalty:

- (a) if the simulated person purports to be a real person who is under the age of 17 years, or the threat is made to a person who is under the age of 17 years—\$10 000 or imprisonment for 2 years;
- (b) in any other case—\$5 000 or imprisonment for 1 year.

- (3) It is a defence to a charge of an offence against this section to prove that each real person depicted in the depiction to which the offence relates gave written consent to the distribution of the humiliating or degrading depiction or invasive depiction (as the case may be).
- (4) This section applies to a threat directly or indirectly communicated by words (written or spoken) or by conduct, or partially by words and partially by conduct, and may be explicit or implicit.

## **26J—General provisions**

- (1) An apparent consent will not be an effective consent for the purposes of this Part if—
  - (a) given by a person who is under the age of 17 years or with a cognitive impairment; or
  - (b) obtained from a person by duress or deception.
- (2) If a court finds a person guilty of an offence against this Part, the court may order the forfeiture of anything that has been seized and consists of, or contains a record of, artificially generated content used in the course of the commission of the offence, or consists of equipment used for the commission of the offence.
- (3) A court making an order for forfeiture of any equipment or item under subsection (2) may, if it thinks fit, allow the offender or any other person an opportunity to retrieve (in accordance with any directions of the court) specified records, or other material, not involved in the commission of the offence from the equipment or item before it is so forfeited.