

TABLED



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 805

AMENDMENT NO. **A10**
(to be filled in by
Principal Clerk)

H805-ATC-18 [v.3]

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Amends Title [YES]
Third Edition

Date _____, 2025

Senator Grafstein

1 moves to amend the bill on page 1, lines 2-19, by rewriting those lines to read:

2
3 "AN ACT TO PREVENT THE SEXUAL EXPLOITATION OF WOMEN AND MINORS.";

4
5 and on page 1, line 21, through page 8, line 5, by rewriting those lines to read:

6
7 "SECTION 1.(a) Chapter 66 of the General Statutes is amended by adding a new
8 Article to read:

9 "Article 51A.

10 "Prevent Sexual Exploitation of Women and Minors.

11 "§ 66-505. Short title; definitions.

12 (a) This Article shall be known and may be cited as the "Prevent Sexual Exploitation of
13 Women and Minors Act."

14 (b) The following definitions apply in this Article:

15 (1) Authorized representative. – With respect to an individual:

16 a. A person authorized in writing under State or other applicable law by
17 the individual to act on behalf of the individual with regard to the
18 matter in question; or

19 b. In the case of an individual under the age of 18, a parent or legal
20 guardian of the individual.

21 (2) Coerced consent. – Purported consent obtained from a person lacking the
22 capacity to consent or obtained from a person with capacity to consent under
23 any of the following circumstances:

24 a. Through fraud, duress, misrepresentation, undue influence, or
25 nondisclosure.

26 b. Through exploiting or leveraging the person's (i) immigration status,
27 (ii) pregnancy, (iii) disability, (iv) substance abuse disorder, (v)
28 juvenile status, or (vi) economic circumstances.

29 (3) Consent. – An agreement that is informed and thorough and does not include
30 coerced consent.

31 (4) Distribute. – As defined in G.S. 66-500.



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- (5) Eligible person. – An individual depicted in the pornographic image who has not provided consent, or who has withdrawn consent in compliance with the laws applicable to the jurisdiction, for the distribution of the pornographic image, or an authorized representative of that individual.
- (6) Intimate visual depiction. – Any visual depiction of an individual meeting all of the following criteria:
- a. The individual is reasonably identifiable from the visual depiction itself or information displayed in connection with the visual depiction, including through (i) facial recognition, (ii) an identifying marking on the individual, including a birthmark, piercing, or tattoo, (iii) an identifying feature of the background of the visual depiction, (iv) voice matching, or (v) written confirmation from an individual who is responsible, in whole or in part, for the creation or development of the visual depiction.
- b. The individual depicted is engaging in sexual activity or the exposed or substantially exposed genitals, anus, pubic area, or post-pubescent female nipple of the individual depicted is visible.
- (7) Online entity. – An individual or group of individuals working together or an entity defined in G.S. 66-500.
- (8) Online entity operator. – A provider for an online entity that qualifies as a sexually oriented business as defined by G.S. 160D-902(f) or which is subject to G.S. 66-501 because it publishes or distributes material on a website that contains a substantial portion of material harmful to minors.
- (9) Performer. – Any person portrayed in a visual depiction engaging in, or assisting another person to engage in, sexual activity.
- (10) Pornographic image. – A visual depiction of actual or feigned sexual activity or an intimate visual depiction.
- (11) Publish. – As defined in G.S. 66-500.
- (12) Sexual activity. – As defined in G.S. 14-190.13.
- (13) Visual depiction. – Any photograph, film, video, picture, digital image, or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means.

"§ 66-506. Age verification obligations.

(a) An online entity operator may not publish or allow a user to publish a pornographic image to the online entity unless the operator has verified that all of the following criteria are met for each individual appearing in the pornographic image:

- (1) The individual was not less than 18 years of age when the pornographic image was created.
- (2) The individual has provided explicit written evidence of consent for each act of sexual activity in which the individual engaged during the creation of the pornographic image.
- (3) The individual has provided explicit written consent for the distribution of the specific pornographic image.

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1 **(b) Separate consent is required for the act of sexual activity and for distribution of the**
2 **intimate visual depiction, as follows:**

3 **(1) Consent for sex act. – Consent described in subdivision (2) of subsection (a)**
4 **of this section does not imply or constitute evidence of consent described in**
5 **subdivision (3) of that subsection.**

6 **(2) Consent for distribution of image. – Consent described in subdivision (3) of**
7 **subsection (a) of this section does not imply or constitute evidence of consent**
8 **described in subdivision (2) of that subsection.**

9 **(c) To carry out the obligations of subsection (a) of this section, an online entity operator**
10 **shall obtain all of the following from the user or entity seeking to publish the pornographic image**
11 **or through other means:**

12 **(1) Written consent from each individual appearing in the pornographic image**
13 **that includes:**

14 **a. The name, date of birth, and signature of the individual.**

15 **b. A statement that the individual is not less than 18 years of age, unless**
16 **no reasonable person could conclude that the individual is less than 30**
17 **years of age.**

18 **c. A statement that the consent is for distribution of the specific**
19 **pornographic image.**

20 **d. A statement that explains coerced consent and that the individual has**
21 **the right to withdraw the individual's consent at any time.**

22 **(2) Not less than one form of valid identification for each individual appearing in**
23 **the pornographic image (i) issued by an agency of the federal government or**
24 **of a state, local, or foreign government; and (ii) containing the name, date of**
25 **birth, signature, and photograph of the individual; and on which the name,**
26 **date of birth, and signature of the individual match the name, date of birth,**
27 **and signature of the individual on the consent form required under subsection**
28 **(a) of this section.**

29 **"§ 66-507. Removal of images.**

30 **(a) An online entity operator shall establish a procedure for removing a pornographic**
31 **image from the online entity at the request of a person and designate one or more employees of**
32 **the operator to be responsible for handling requests for removal of pornographic images.**

33 **(b) An online entity operator shall display a prominently visible notice on the website or**
34 **mobile application of the online entity that provides instructions on how a person can request the**
35 **removal of a pornographic image.**

36 **(c) If an online entity operator receives a request from an eligible person or a law**
37 **enforcement officer acting pursuant to a valid court order, through any request mechanism**
38 **offered by the operator under subsection (b) of this section, to remove a pornographic image that**
39 **is being hosted by the online entity without the consent of an individual who appears in the**
40 **pornographic image, the operator shall remove the pornographic image as quickly as possible,**
41 **and in any event not later than 72 hours after receiving the request.**

42 **(d) If an online entity operator receives a request from a person other than an eligible**
43 **person or law enforcement officer acting pursuant to a court order, through any request**

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mechanism offered by the operator under subsection (b) of this section, to remove a pornographic image that is being hosted by the online entity without the consent of an individual who appears in the pornographic image, then not later than 72 hours after receiving the request, the operator shall do the following:

- (1) Review the records of the operator with respect to the pornographic image to determine whether the pornographic image was published to the platform in accordance with the verification requirements of G.S. 66-506; and
- (2) Remove the pornographic image if the operator determines that the pornographic image was not published to the platform in accordance with the verification requirements of G.S. 66-506.

(e) An online entity operator shall remove a pornographic image temporarily if any question arises as to the consent of a performer. This requirement is in addition to the requirements of subsections (c) and (d) of this section.

(f) At the request of a performer, a pornographic image distributed or published by an online entity operator must be removed within 72 hours of the request being made, regardless of the age or consent of the performer.

(g) In the case of a pornographic image that has been removed from an online entity in accordance with this section, the online entity operator shall block the pornographic image, and any altered or edited version of the pornographic image, from being distributed on or published to the online entity again.

"§ 66-508. Obligations of users.

(a) A user of an online entity may not distribute or publish a pornographic image of an individual to the online entity without the consent of the individual.

(b) For purposes of subsection (a) of this section, whether an individual has provided consent to the publishing of a pornographic image shall be determined in accordance with this Article.

"§ 66-509. Enforcement.

(a) Violations of this Article are subject to the imposition of civil penalties. In determining the amount of the penalty, the Attorney General shall consider the degree and extent of harm caused by the violation. A civil penalty under this Article shall accrue on a per day and per image basis. The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(b) The Attorney General may impose a civil penalty on any online entity operator that violates this Article in an amount of not more than ten thousand dollars (\$10,000) for each day during which a pornographic image remains on the online entity, beginning 24 hours after the Attorney General provides notice of the violation to the operator.

(c) The Attorney General may impose a civil penalty on any online entity operator that violates G.S. 66-507(b) in an amount of not more than ten thousand dollars (\$10,000) for each day during which the online entity remains in violation, beginning 24 hours after the Attorney General provides notice of the violation to the operator.

(d) The Attorney General may impose a civil penalty on any online entity operator that violates G.S. 66-507(c) in an amount of not more than five thousand dollars (\$5,000) for each

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day during which the online entity remains in violation of that subsection, beginning 24 hours after the Attorney General provides notice of the violation to the operator.

(e) An online entity operator shall not be liable for a violation of this Article if, in allowing the publishing of a pornographic image to the online entity, the operator reasonably relied on verification materials that were later found to be in violation of this Article, provided that the operator removes the pornographic image not later than 24 hours after receiving notice that the verification materials are in violation of this Article.

(f) If an online entity operator fails to remove a pornographic image within 24 hours of receiving notice that the verification materials are in violation of this Article, damages shall be calculated with respect to each day on or after the date on which that 24-hour period expires.

(g) If an online entity operator violates this Article with respect to a pornographic image, any eligible person may bring a civil action against the online entity operator for damages in an amount equal to (i) ten thousand dollars (\$10,000) for each day during which a pornographic image remains on the online entity in violation of this Article, calculated on a per day and per image basis, or (ii) treble damages, whichever is greater. A prevailing eligible person shall be awarded attorneys' fees.

(h) If a user of an online entity violates this Article with respect to a pornographic image, any eligible person may bring a civil action against the user for damages in an amount equal to (i) ten thousand dollars (\$10,000) for each day during which the pornographic image remains on the online entity in violation of this Article, calculated on a per day and per image basis, or (ii) treble damages, whichever is greater. A prevailing eligible person shall be awarded attorneys' fees.

"§ 66-510. Severability.

If any provision of this Article is held invalid or unenforceable, the invalidity or unenforceability shall not affect other provisions or applications of this Article that can be given effect without the invalid or unenforceable provision or application and, to this end, the provisions of this Article are severable."

"§ 66-511. Procedure for garnishment.

(a) Definitions. – The following definitions apply in this section:

(1) Judgment creditor. – A person awarded a judgment in which a determination has been made that a judgment debtor is found to have violated Article 51A of Chapter 66 of the General Statutes.

(2) Judgment debtor. – A person against whom a judgment has been rendered in which a determination has been made that the judgment debtor is found to have violated Article 51A of Chapter 66 of the General Statutes.

(3) Earnings. – Compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise.

(4) Disposable earnings. – The part of the earnings which remains after the deduction of any amounts required by law to be withheld or withheld to pay for reasonably necessary expenses of the judgment debtor or the judgment debtor's dependents, including health care and day care expenses.

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1 (5) Garnishee. – The person, firm, association, or corporation owing
2 compensation for personal services, whether denominated as wages, salary,
3 commission, bonus, or otherwise.

4 (b) Judgments May Be Enforced by Garnishment of Wages. – Any judgment creditor
5 awarded a judgment in which a determination has been made that a judgment debtor is found to
6 have violated Article 51A of Chapter 66 of the General Statutes and in which the acts or practices
7 that constituted the violation were knowingly and willfully committed may move the court in the
8 county wherein the judgment debtor resides for an order of garnishment of the disposable
9 earnings of the judgment debtor at any time after attempting execution of a judgment for unfair
10 or deceptive acts or practices that has been returned wholly or partially unsatisfied after
11 exhausting remedies available under Article 31 of Chapter 1 of the General Statutes, provided
12 the following conditions have been met:

13 (1) The judgment creditor has sent a certified letter to the judgment debtor's last
14 known address that includes information that the judgment debtor's disposable
15 earnings may be subject to wage garnishment.

16 (2) The judgment debtor has neglected or refused to pay or make reasonable
17 arrangements to pay the judgment within 10 days of the mailing of the letter
18 described in subdivision (1) of this subsection.

19 (c) Motion and Notice Procedures. – The motion shall be in writing and describe in detail
20 the grounds for requesting garnishment, the amount of judgment alleged to be unpaid, and the
21 source of earnings of the judgment debtor. A notice of hearing must be served on the judgment
22 debtor at least 10 days before the hearing, in a form prescribed by the Administrative Office of
23 the Courts, that notifies the judgment debtor of the following:

24 (1) If the judgment debtor fails to appear at the hearing, the court will enter an
25 order directing the judgment debtor's employer to withhold a portion of wages
26 to apply to the judgment.

27 (2) The amount withheld may be as much as fifteen percent (15%) of the
28 judgment debtor's disposable earnings.

29 (3) An order of garnishment shall not be entered if the judgment debtor is making
30 regular payments to the judgment creditor that are equal to ten percent (10%)
31 of the judgment debtor's monthly disposable earnings.

32 (4) An order of garnishment shall not be entered if the judgment debtor can show
33 at the hearing that economic hardship would result to the judgment debtor or
34 judgment debtor's dependents if garnishment is ordered.

35 (d) Filing Fee. – The filing fee for a motion requesting garnishment under this section is
36 the same as for other supplemental proceedings, as set forth in G.S. 7A-308(a)(2). This fee may
37 be recoverable by the judgment creditor as a taxable cost of the action.

38 (e) Hearing. – The court may enter an order of garnishment following notice
39 requirements set forth in this Article and a hearing held before a superior or district court judge
40 pursuant to the motion for garnishment. At the hearing on the motion, the court shall determine
41 whether an order of garnishment is appropriate on the basis of the motion, any affidavit of the
42 judgment creditor, the record in the civil action, and any testimony and other relevant evidence
43 offered by either party. The court shall not enter an order of garnishment if the judgment debtor

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1 is making regular payments to the judgment creditor that are equal to ten percent (10%) of the
2 judgment debtor's monthly disposable earnings, or if economic hardship would result to the
3 judgment debtor or judgment debtor's dependents if garnishment is ordered.

4 (f) Amount Subject to Garnishment. – The court shall not enter an order of garnishment
5 that exceeds the lesser of fifteen percent (15%) of the judgment debtor's monthly disposable
6 earnings, or the amount by which the disposable earnings for that pay period exceed an amount
7 calculated by multiplying the federal minimum hourly wage by 50 times the number of weeks in
8 the pay period. For purposes of applying this provision, a bimonthly pay period shall constitute
9 2.17 weeks and a monthly pay period shall constitute 4.33 weeks.

10 (g) Order of Garnishment; Contents. – If an order of garnishment is entered, the order
11 shall state (i) the names and last known addresses of the judgment creditor and judgment debtor,
12 (ii) the court in which and the date on which the money judgment was rendered, (iii) the original
13 amount of the money judgment and the amount due thereon, (iv) the portion of the judgment
14 debtor's earnings that are subject to garnishment thereunder, or the information necessary to
15 determine such portion, and (v) any information that the judgment creditor provides to identify
16 the judgment debtor's employer. The garnishment order shall notify any garnishee of the manner
17 prescribed by this section for complying with the order. A copy of the order shall be personally
18 served on the judgment debtor and the garnishee by any method authorized under G.S. 1A-1,
19 Rule 4(j). The garnishment order shall be subject to review for modification or dissolution upon
20 the filing of a motion in the cause.

21 (h) Payment to Creditor; Garnishee May Retain Fee. – Upon receipt of an order of
22 garnishment, and beginning with the judgment debtor's next succeeding pay period starting after
23 the receipt of the notice of garnishment, the garnishee shall withhold and transmit to the judgment
24 creditor, at the address specified in the order, the amount ordered by the court to be garnished.
25 The garnishee shall not be required to change normal pay cycles but shall make every effort to
26 ensure that payments are received as soon as practicable. The garnishment order shall simplify
27 the withholding process for garnishees to the extent possible. The amount garnished shall be
28 increased by an additional five dollar (\$5.00) processing fee to be assessed and retained by the
29 garnishee for each payment under the order. The judgment creditor shall, within five business
30 days following the satisfaction of the judgment, deliver to the garnishee a written notification
31 that the garnishment order is satisfied.

32 (i) Duration of Garnishment Order. – A garnishment order issued pursuant to this section
33 shall continue until whichever of the following events occurs first:

34 (1) The underlying judgment has been satisfied in full.

35 (2) The judgment debtor ceases to be employed by the employer, unless the
36 judgment debtor is thereafter reinstated or reemployed within 90 days from
37 the date employment was terminated.

38 (3) The limitations period prescribed by G.S. 1-55.1 has expired.

39 (j) Priority of Garnishment Orders. – Garnishment orders shall be satisfied by the
40 employer according to the following order of priority, from highest to lowest:

41 (1) Garnishment pursuant to some authority other than this Article, by a
42 governmental entity, by a public hospital, for child support, or by some other

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entity or for some other purpose. Nothing in this Article alters the priority in which such garnishments are to be satisfied.

(2) Garnishment pursuant to this Article. If an employer is served with more than one garnishment order obtained pursuant to this Article against the same judgment debtor, the garnishments shall be satisfied in the order in which they were served on the employer. Each prior garnishment order shall be satisfied before any effect is given to a subsequent garnishment order.

(k) Application of Payments Received. – All payments received by a judgment creditor shall be credited or applied in the following mandatory order of priority:

(1) Against the record costs of the judgment and garnishment orders.

(2) Against the accrued interest on the unpaid balance of the judgment, including post judgment interest.

(3) Against the principal amount of the judgment.

(4) Against any attorneys' fees and costs awarded.

(l) Notice of Satisfaction. – Notwithstanding G.S. 1-239(c), a judgment creditor shall not notify the clerk of superior court of the receipt of each individual payment under the garnishment order, but upon receipt of payment in full of the total amount ordered, a judgment creditor shall, within 60 days of the receipt of said payment, file with the clerk of superior court in the county where the judgment and garnishment order were entered a notice of payment in full and satisfaction of the judgment. If a judgment creditor fails to file the notice required by this subsection within 30 days following written demand by the judgment debtor, the judgment creditor may be required to pay a civil penalty of one hundred dollars (\$100.00) in addition to attorneys' fees and any loss caused to the judgment debtor by such failure.

(m) Improper Garnishment. – In the event of an improper garnishment, the court may set aside the garnishment order and make such further orders as are necessary to return to the judgment debtor any funds improperly garnished, together with damages and reasonable costs and attorneys' fees."

SECTION 1.(b) Article 23 of Chapter 1 of the General Statutes is amended to add a new section to read:

"§ 1-234.1. Lien for judgment awarding damages under Article 51A of Chapter 66 of the General Statutes.

Upon the entry of a judgment awarding damages to an eligible person based upon or arising out of a violation of Article 51A of Chapter 66 of the General Statutes, the clerk of superior court shall index and record the judgment on the judgment docket of the court of the county where the judgment was entered. The judgment may be docketed on the judgment docket of the court of any other county upon the filing with the clerk thereof of a transcript of the original docket. The judgment lien is effective as against third parties from and after the indexing of the judgment as provided in G.S. 1-233. The judgment is a lien on the real property in the county where the same is docketed of every person against whom any such judgment is rendered, and which he has at the time of the docketing thereof in the county in which such real property is situated, or which he acquires at any time thereafter, for 20 years from the date of the entry of the judgment under G.S. 1A-1, Rule 58, in the county where the judgment was originally entered. But the time during which the party recovering or owning such judgment shall be, or shall have been, restrained from

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1 proceeding thereon by an order of injunction, or other order, or by the operation of any appeal,
2 or by a statutory prohibition, does not constitute any part of the 20 years aforesaid, as against the
3 defendant in such judgment, or the party obtaining such orders or making such appeal, or any
4 other person who is not a purchaser, creditor or mortgagee in good faith."

5 **SECTION 1.(c)** Article 5 of Chapter 1 of the General Statute is amended to add a
6 new section to read:

7 **"§ 1-55.1 Twenty years.**

8 **Within twenty years an action –**

9 (1) Upon a judgment awarding damages to an eligible person based upon or
10 arising out of a violation of Article 51A of Chapter 66 of the General Statutes,
11 from the date of its entry. No such action may be brought more than once, or
12 have the effect to continue the lien of the original judgment.

13 (2) Upon a judgement entered in an action brought pursuant to subdivision (1) of
14 this section, from the date of its entry. No such action may be brought more
15 than once, or have the effect to continue the lien of the original judgment."

16 **SECTION 2.** This act becomes effective December 1, 2025, and applies to acts or
17 omissions occurring before, on, or after that date."

SIGNED


Amendment Sponsor

SIGNED

Committee Chair if Senate Committee Amendment

ADOPTED

FAILED

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