WEST VIRGINIA CODE: §61-8C-1

§61-8C-1. Definitions.

(a) For the purposes of this article:

(1) “Minor” means any child under 18 years of age.

(2) “Knowledge” means knowing or having reasonable cause to know which warrants further inspection or inquiry.

(3) “Sexually explicit conduct” includes any of the following, whether actually performed or simulated:

(A) Genital to genital intercourse;

(B) Fellatio;

(C) Cunnilingus;

(D) Anal intercourse;

(E) Oral to anal intercourse;

(F) Bestiality;

(G) Masturbation;

(H) Sadomasochistic abuse, including, but not limited to, flagellation, torture, or bondage;

(I) Excretory functions in a sexual context; or

(J) Exhibition of the genitals, pubic, or rectal areas of any person in a sexual context.

(4) “Person” means an individual, partnership, firm, association, corporation, or other legal entity: *Provided*, That this term does not apply to the provider of an interactive computer service as defined by 47 U. S. C. §230(f)(2), an information service as defined by 47 U. S. C. §153(24), or telecommunications service as defined by 47 U. S. C. §153(53), for content provided by another person.

(5) “Visual portrayal” means:

(A) A photograph;

(B) A motion picture;

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(C) A digital image;

(D) A digital video recording;

(E) Any other mechanical or electronic recording process or device that can preserve, for later viewing, a visual image of a person that includes, but is not limited to, computers, cellphones, personal digital assistance, and other digital storage or transmitting devices; or

(F) Any media listed in this subdivision which was created, generated, or otherwise produced, in whole or in part, by any manner of manipulation, including, but not limited to, artificial intelligence.

(6) “Computer-generated child pornography” means:

(A) Any visual portrayal of an identifiable minor that has been created, adapted, or modified to depict the minor as engaging in sexually explicit conduct; or

(B) Any visual portrayal that appears to depict a minor engaged in sexually explicit conduct if the visual portrayal is:

(i) Created by the use of artificial intelligence or other computer technology capable of processing and interpreting specific data inputs to create a visual portrayal; and

(ii) Indistinguishable from a minor.

(7) “Identifiable minor” means any visual portrayal that depicts a minor who is identifiable from the matter itself or from information displayed with or otherwise connected to the matter, and that was created or altered by the use of artificial intelligence or other computer technology capable of processing and interpreting specific data inputs to depict the minor.

(8) “Indistinguishable” as used with respect to a visual portrayal, means virtually indistinguishable, in that the visual portrayal is such that an ordinary person viewing the visual portrayal would conclude that the visual portrayal is of an actual minor engaged in sexually explicit conduct. This definition does not apply to visual portrayals that are drawings, cartoons, sculptures, or paintings depicting minors or adults.

(b) Nothing in this article shall be construed to include a visual portrayal of an actual and identifiable person who was not a minor at the time the visual portrayal was created.

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