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Criminal Justice (Sentencing etc) Bill: Sexually Explicit Deepfake Images

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This paper provides an overview of the different international approaches taken in jurisdictions which have introduced criminal offences to tackle the creation, sharing and solicitation of sexually explicit deepfake images of adults.

This paper contains references to topics some readers may find distressing, including the impact of image based sexual abuse.

This information is provided to Members of the Legislative Assembly (MLAs) in support of their duties, and is not intended to address the specific circumstances of any particular individual. It should not be relied upon as professional legal advice, or as a substitute for it.

Executive Summary

- Deepfake technology allows users to generate content (such as an image, video or audio) that is wholly or partially fabricated or to manipulate existing material. These deepfake creations are intended to appear to a person to be authentic despite being fabricated or manipulated by AI. There has been growing concern globally around the proliferation of ‘nudification’ apps which have resulted in a significant rise in the number of deepfakes involving non-consensual sexual images or videos of women and girls.
- Generally, there are a variety of approaches to the criminalisation of intimate image abuse with differences in criminal laws across the jurisdictions examined in this paper. Therefore as lawmakers attempt to tackle the problem of sexually explicit deepfakes, new offences are framed in ways that are consistent with and informed by the wider framework of criminal laws in each specific country.
- A range of jurisdictions criminalise the distribution of sexually explicit deepfakes of adults with a smaller, but increasing, number also seeking to tackle these deepfakes by criminalising the creation and solicitation of such material. Some countries have moved to introduce new consent-based offences relating to the creation of an image which do not require proof of an offender's motivations. Civil law options for redress for victims have also been introduced in a number of countries, including compensation and orders to remove material from internet platforms.
- In England and Wales, the [Data \(Use and Access\) Act 2025](#) made it an offence to intentionally create (or solicit) an intimate image of another person without that person’s consent or a reasonable belief in their consent. The offences are summary only meaning they can only be tried in the Magistrates’ Court. In Scotland, the Government is taking a similar approach and recently [consulted](#) on new offences relating to the creation (or requesting the creation) of intimate images.
- South Korea has one of the most comprehensive laws tackling sexually explicit deepfake images. These criminalise creation (maximum of 7 years in prison), alongside the possession, purchasing, saving or

watching of sexually explicit deepfake images and videos (maximum of 3 years in prison).

- Australia has adopted new federal [legislation](#) criminalising the transmission of sexually explicit deepfakes (maximum of 6 years in prison). This underlying offence can be treated as aggravated in cases where the offender has also created or altered the material (maximum of 7 years in prison).
- Several Australian states have gone further than this with [Victoria](#) criminalising the production and distribution (including threats) of sexually explicit deepfake images (maximum of 3 years in prison). [New South Wales](#) also recently made it an offence for a person to (including threats) alter images or audio of another person without consent so that the image or audio is intimate image or audio material. In addition, the legislation covers creating intimate image or audio material of a simulated person without the consent of the real person whom the image or audio is meant to represent (maximum of 3 years in prison for both offences).
- The state of [South Australia](#) recently enacted new offences to target the creation and distribution (including threats to distribute where the offender intends to arouse fear or is recklessly indifferent) of invasive depictions of a simulated person that have been generated by AI (maximum of 2 years in prison for creation and distribution and 1 year for threats to distribute).
- In the United States of America, the TAKE IT DOWN [Act](#) created federal offences for knowingly publishing or threatening to publish non-consensual intimate visual depictions or digital forgeries of an identifiable person, including AI-generated sexual deepfakes (maximum of 2 years in prison).
- The state of [Texas](#) has criminalised the unlawful production or distribution of sexually explicit “deep fake media” without consent (maximum of 1 year in prison). This also creates an offence for a person who intentionally threatens to produce or distribute sexually explicit deep

fake media with the intent to coerce, extort, harass, or intimidate another person (maximum of 6 months in prison).

- In [Florida](#), legislation prohibits a person from wilfully generating (or soliciting) an altered sexual depiction of an identifiable person without consent. It is also an offence to possess, with the intent to maliciously promote, an altered sexual depiction of an identifiable person without consent (maximum of 5 years in prison for these offences).
- In [Canada](#), sexually explicit deepfake images were recently included in the offence of distributing an intimate image without consent. Threats to distribute a sexually explicit deepfake were also made a criminal offence in certain circumstances (maximum of 10 years in prison on indictment for both offences).
- Looking to the European Union, the EU's [Directive](#) on Violence Against Women and Domestic Violence sets minimum criminal law standards on the non-consensual sharing (including threats) of sexually explicit deepfakes which member states are expected to comply with by June 2027.
- A number of EU member states are increasingly taking action on sexually explicit deepfake images. The [Netherlands](#) criminalises the production and possession of a sexual image of a person without the knowledge or consent of the portrayed person (maximum of 1 year in prison). The distribution of these images, where the holder knew or reasonably should have known that the sexual image was produced deliberately and without the consent of the portrayed person, or where the holder is aware that publication would be harmful, can result in a prison term of up to 2 years.
- [Denmark](#) has prepared amendments to national copyright rules to grant people more control over their voices and images in AI-generated deepfakes. It proposes a novel approach that would introduce new personality rights utilising copyright law. However, there is an ongoing debate around the most appropriate legal framework for doing this and the need for these new rights.

- In the [Republic of Ireland](#), it is an offence to distribute or publish (including threats) intimate images without a person's consent with the intent to cause harm or being reckless as to whether harm is caused. This includes AI-generated materials and deepfakes (maximum of 7 years in prison on indictment).
- In Northern Ireland, the Department of Justice recently [consulted](#) on proposals to make it an offence to create, request the creation of, share or threaten to share sexually explicit deepfake images of adults. The Justice Minister has indicated that these new offences will be legislated for by way of an amendment to the Criminal Justice (Sentencing etc) Bill at Consideration Stage.
- The creation of deepfake indecent images of children who are (or appear to be) under 18 is covered by Article 3 of the Protection of Children (Northern Ireland) Order 1978 (which uses the term "pseudo-photograph"). This paper is limited to considering offences relating to the creation, sharing and solicitation of sexually explicit deepfake images of adults.

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1 Introduction

1.1 Context

Advances in digital technologies provide new opportunities for harm, including sexualised deepfake abuse which involves the non-consensual creation, distribution, or threat to create/distribute an image, video or audio of another person that has been altered in a sexualised way.

In recent years, there has been a proliferation of shared open-source technologies used to facilitate deepfake creation and dissemination which predominantly target women and girls.¹ This includes the use of ‘nudification’ apps which have significantly increased the accessibility of this technology.² Research indicates that victims report that the impact of sexualised deepfake posts being shared can be just as harmful as if the intimate images were really of them.³

More broadly, a 2024 report from the Open University, examining online violence against women across the UK, found that while the majority of surveyed women in Northern Ireland (79 per cent) had not experienced such abuse, 12 per cent reported that they had.⁴ This online violence can include a range of abusive acts, such as image based sexual abuse, text-based abuse, cyberstalking, cyberbullying, the use of deepfakes, impersonation, threats of physical violence, trolling, online misogyny and sexting.

The report noted that there are “*stark differences*” in the experience of online violence based on age and sexuality. 25 per cent of women aged 25-34 and 18 per cent of those aged 16-24 experienced online violence, compared to 4 per

¹ H. Ajder and R. Volkert ‘[Analyzing the Commoditization of Deepfakes](#)’ *New York University Journal of Legislation of Public Policy* (2020) and K. Hao, ‘[A horrifying new AI app swaps women into porn videos with a click](#)’ *MIT Technology Review* (2021)

² C. McGlynn and R. Toparlak ‘[Creating Sexually Explicit Deepfakes: Options for Criminal Law Reform](#)’ Durham University and Hate Aid (July 2024), page 3

³ S. Poppleton and M. Storry ‘[The Impact of Online Abuse: Hearing the Victims’ Voice](#)’ Office of the Victims’ Commissioner (2022), page 44

⁴ O. Jurasz, ‘[Online Violence Against Women: A Four Nations Study](#)’ The Open University (2024), page 112 and M. Greig ‘[Digital spaces, real harm: Tackling online violence against women and girls](#)’ Research Matters (December 2025)

cent of women aged 45-54. 43 per cent of LGBTQIA+ women in Northern Ireland experienced online violence, compared to 8 per cent of heterosexual women.⁵

This briefing paper has been prepared following a request from the Northern Ireland Assembly's Justice Committee. The Committee has asked for an overview of the approaches adopted in other jurisdictions which have criminalised the creation, sharing and solicitation of sexually explicit deepfake images.

The paper focuses on a number of international examples, including South Korea, Australia, New Zealand, the United States of America, Canada, Denmark, France, Germany and the Netherlands. It also considers recent developments in England and Wales, Scotland and the Republic of Ireland.

The examples presented in this paper are intended to provide illustrative comparators that demonstrate different legislative approaches, rather than constituting a comprehensive review of international responses to the issue of sexually explicit deepfake images.

1.2 Existing Legislation in Northern Ireland

At present, it is a criminal offence to disclose, or threaten to disclose, a private sexual photograph or film where this is done for the purpose of causing distress to the person(s) featured in the image. This was introduced via sections 51-53 of Justice Act (Northern Ireland) 2016.⁶

The total number of 'sharing intimate images' offences recorded by the police from April 2025 to March 2026 was 110.⁷ In previous years, police recorded 91 offences for 2024-2025, 86 offences for 2023-2024, 90 offences for 2022-2023

⁵ Ibid

⁶ Justice Act (Northern Ireland) 2016, [Sections 51-53](#). The Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022, [Section 6](#) extended the scope of the disclosure offence to provide for a new offence of threatening to disclose a private sexual photograph or film with intent to cause distress

⁷ Police Service of Northern Ireland, [Financial year update, period ending 31 March 2026, providing figures for 2025/26](#) (May 2026), table 15

and 92 offences for 2021-2022. However, this offence does not extend to covering the sharing of intimate image deepfakes.

The Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022 criminalised up-skirting, down-blousing and the sending of unwanted sexual images (or cyber-flashing). On summary conviction, an offender is liable to imprisonment of 6 months (or a fine up to the statutory maximum or both). On conviction on indictment, imprisonment can be for a maximum of 2 years.

The legislation which criminalises up-skirting and down-blousing provides for offences of ‘operating equipment’ and ‘recording images’ beneath (or above) a person’s clothing to observe or record their genitals/ buttocks/ breasts (whether exposed or covered with underwear).⁸

This must be done without the victim’s consent or a reasonable belief in consent. The image or recording must be taken for the purpose of sexual gratification or to humiliate, alarm or distress the victim. Alternatively the perpetrator must be reckless as to whether the victim is humiliated, alarmed or distressed.

For the purposes of the cyber-flashing offence, a person must intentionally send a sexual image to another person without their consent and where they reasonably knew there was no consent.⁹

The offence requires that this is done with the intention that the person will look at the image and be humiliated, alarmed or distressed by it. Alternatively it can be sent for the purpose of obtaining sexual gratification and the sender is reckless as to whether the person receiving it is humiliated, alarmed or distressed.

In 2025-2026, the PSNI recorded 83 cyber-flashing offences followed by 64 and 29 offences in 2024-2025 and 2023-2024 respectively. In 2025-2026, there

⁸ Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022, [Section 1](#) which amended the Sexual Offences (Northern Ireland) Order 2008 by adding new [Article 71A](#) and [Article 71B](#)

⁹ Justice (Sexual Offences and Trafficking Victims) Act (Northern Ireland) 2022, [Section 2](#) which amended the Sexual Offences (Northern Ireland) Order 2008 by adding new [Article 72A](#)

were 4 up-skirting/ down-blousing offences recorded by police and 14 offences in 2024-2025 (there were 0 offences recorded in 2023-2024).¹⁰

It should also be noted that there are already separate protections in place for children. Article 3 of the Protection of Children (Northern Ireland) Order 1978 provides that it is an offence to take, make, distribute, show, possess (with a view to it being distributed or shown) or publish an indecent photograph, or pseudo-photograph, of a child under 18.¹¹ In addition, possession of an indecent photograph, or pseudo-photograph, of a child is an offence under the Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988.¹²

In 2025, a public consultation on proposals to criminalise sexually explicit deepfake images of adults was launched by the Department of Justice.¹³ The consultation sought views on proposals to make it an offence to create/ request the creation of and share/ threaten to share non-consensual sexually explicit deepfake images.

On conviction on indictment, it was proposed that imprisonment would be for a maximum of 2 years. On summary conviction, imprisonment would be for a maximum of 6 months (or a fine up to the statutory maximum or both).

The offences contained in the consultation require proof of motivation, meaning that for the creation/ requesting the creation and sharing offences, proof of intent to humiliate, alarm or distress or for the purposes of sexual gratification would be required. For the threatening to share offence, proof of the intent to cause fear or distress would be required.¹⁴ The consultation also referred to the

¹⁰ Police Service of Northern Ireland, [Financial year update, period ending 31 March 2026, providing figures for 2025/26](#) (May 2026), table 15

¹¹ Protection of Children (Northern Ireland) Order 1978, [Article 3](#). A pseudo-photograph means “an image, whether made by computer graphics or otherwise howsoever, which appears to be a photograph”. This mirrors similar legislation in England and Wales under the Protection of Children Act 1978, [Section 1](#) and in Scotland under the Civic Government (Scotland) Act 1982, [Section 52](#)

¹² Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988, [Article 15](#). This mirrors similar legislation in England and Wales under the Criminal Justice Act 1988, [Section 160](#) and in Scotland under the Civic Government (Scotland) Act 1982, [Section 52A](#)

¹³ Department of Justice, [A Consultation on Proposals to Criminalise Sexually Explicit Deepfake Images](#) (July 2025) and Northern Ireland Assembly Official Report, [Justice Bill Deepfake Amendment Consultation: Department of Justice](#) (26 June 2025)

¹⁴ Ibid, pages 18-19 and 22

inclusion of a recklessness element in the offences to “*guard against over-criminalisation*”, particularly of children and young people.¹⁵

The Justice Minister has since outlined plans to bring forward legislative proposals by way of an amendment to the Criminal Justice (Sentencing etc) Bill at Consideration Stage.¹⁶ In July 2026, the Minister also indicated an intention to bring forward an additional consent-based offence of creation which would not require proof of a perpetrator’s motivation.¹⁷ At the time of writing this paper, the full consultation summary report and text of the draft amendment were not available for analysis.

2 The United Kingdom

2.1 England and Wales

The UK Government has taken a number of actions to introduce new offences designed to address the harm caused by intimate image abuse. For example, the Crime and Policing Act 2026 includes a new offence of possession and publication of pornographic images that depict acts of strangulation or suffocation in a manner which is realistic and explicit.¹⁸ This offence will apply in Northern Ireland once the legislative provisions are commenced.¹⁹

The Online Safety Act 2023 also gave powers to Ofcom to regulate what online service providers allow to appear online and to require action to remove relevant harmful content.²⁰ More recently, the Data (Use and Access) Act 2025

¹⁵ Ibid, page 19

¹⁶ [AQW 48774/22-27](#) (June 2026)

¹⁷ Northern Ireland Assembly Official Report, [Ministerial Briefing: Naomi Long MLA, Minister of Justice](#) (02 July 2026)

¹⁸ Crime and Policing Act 2026, [Section 104](#) which will be commenced in Northern Ireland by way of an order which can be made by the Department of Justice

¹⁹ The Northern Ireland Assembly agreed a Legislative Consent Motion relating to this on 02 February 2026. Northern Ireland Assembly Official Report, [Crime and Policing Bill: Legislative Consent Motion](#) (02 February 2026)

²⁰ Department for Science, Innovation and Technology, [Crackdown on intimate image abuse as government strengthens online safety laws](#) (September 2024) In 2024, the Government added the offence of sharing intimate images without consent, including deepfakes, as a priority offence under

legislated for a new offence of creating a purported intimate image of an adult without their consent and a new offence of requesting the creation of such an image. This applies in England and Wales and is explored in further detail in [section 2.1.2](#).

2.1.1 Law Commission Review

In a July 2022 report on the law on intimate image abuse, the Law Commission considered whether there should be a new offence of making deepfake intimate images.²¹ Despite the “*highly problematic*” nature of some of this behaviour, the Law Commission said it was “*not persuaded that the creation of an offence of simply making such an image – without further sharing or threatening to share – is a proportionate response to the wrongdoing*”.²²

The Law Commission concluded that the criminal law should focus on “*the point at which an intimate image is taken or shared without consent*”.²³ The Law Commission’s final recommendation was that it should not be an offence “*simply to “make” an intimate image without the consent of the person depicted*”.²⁴

More broadly, the Law Commission recommended that there should be a ‘base’ offence for the ‘taking’ and ‘sharing’ of an intimate image without consent, regardless of the motivation or purpose of the perpetrator.²⁵ This is supplemented by more serious offences with additional intent requirements.²⁶

The ‘making’ of an intimate image without consent involving the creation of an altered image (e.g. through the use of ‘nudification’ software) was considered distinct from the ‘taking’ of an image without consent by the Law Commission.²⁷

the Online Safety Act. This requires regulated online platforms to proactively remove this type of content or face enforcement action from Ofcom.

²¹ House of Commons Library, [Data Use and Access Bill](#) (February 2025), page 135

²² Law Commission, [Intimate Image Abuse Final Report](#) (July 2022), page 156

²³ Ibid, page 157

²⁴ Ibid

²⁵ An intimate image is defined as an image that is either sexual, nude, partially nude, or of toileting

²⁶ Law Commission, [Intimate Image Abuse Final Report](#) (July 2022), page 184-224

²⁷ Ibid, page 113

The Commission did recommend that sharing offences, including threats to share, should include images that are intimate as a result of altering which would include deepfakes.²⁸

Despite the Law Commission's conclusion, campaigning for a new offence of creating sexually explicit deepfake images continued given growing concern around the impact on victims.²⁹ In 2025, the Government tabled amendments to the Data (Use and Access) Bill to criminalise the creation of sexually explicit deepfake images without consent.³⁰

2.1.2 Data (Use and Access) Act 2025

The Data (Use and Access) Act 2025 added two new offences to the Sexual Offences Act 2003.³¹ It is an offence for a person to intentionally create a purported intimate image of another person without that person's consent or a reasonable belief in their consent.

It is also an offence to intentionally solicit the creation of a purported intimate image of another person without that person's consent or a reasonable belief in their consent. The solicitation offence applies regardless of the location of the person(s) who have been solicited to create the image. This is intended to avoid a situation where a person could escape criminal liability by asking someone in a jurisdiction not covered by such laws to make the image for them via the internet.

A "purported intimate image" of a person is defined as an image that:

- appears to be (or include) a photograph or film of the person (but is not, or is not only, such a photograph or film)

²⁸ Ibid, page 163. The Online Safety Act 2023, [Section 188](#) amended the Sexual Offences Act 2003, [Section 66B](#) to make it an offence to share or threaten to share intimate images, including deepfakes

²⁹ C. McGlynn, '[Deepfake porn: why we need to make it a crime to create it, not just share it](#)' The Conversation (April 2024) and [End Violence Against Women, New Campaign: Survivors demand Law to Stop Image-Based Abuse](#) (September 2024)

³⁰ Ministry of Justice, [Better protection for victims thanks to new law on sexually explicit deepfakes](#) (January 2025)

³¹ Data (Use and Access) Act 2005, [Section 138](#) amended the Sexual Offences Act 2003, [Section 66E](#) and [Section 66F](#). These offences came into force on 06 February 2026 via [The Data \(Use and Access\) Act 2025 \(Commencement No. 5\) Regulations 2026](#)

- appears to be of an adult and
- appears to show the person in an “intimate state” which is defined by reference to the existing definition in section 66D of the Sexual Offences Act 2003.³²

The offences are summary only meaning they can only be tried in the Magistrates’ Court. The maximum sentence is a term of imprisonment not exceeding the statutory maximum in the Magistrates’ Court (currently 6 months) and/or an unlimited fine.³³ The legislation contains a defence of reasonable excuse for creating or requesting the creation of the purported image.

As noted above, the Sexual Offences Act 2003 already provides for the offences of sharing or threatening to share an intimate photograph or film which cover deepfake images.³⁴ These are:

- a summary offence of intentionally sharing an intimate photograph or film, or what appears to be an intimate photograph or film, without consent or reasonable belief in consent
- two more serious hybrid offences of sharing an intimate photograph or film, or what appears to be an intimate photograph or film, without consent and either with intent to cause alarm, distress or humiliation, or for the purpose of obtaining sexual gratification
- an offence of threatening to share an intimate image or film, or what appears to be an intimate image or film, with the intention of causing fear that the threat will be carried out or being reckless as to whether such fear will be caused.

2.1.3 Crime and Policing Act 2026

The Crime and Policing Act 2026 inserted new sections into the Sexual Offences Act 2003 creating offences of making, adapting, supplying or offering to supply something for use as a generator of purported intimate images (such

³² Sexual Offences Act 2003, [Section 66D](#)

³³ House of Commons Library, [Data Use and Access Bill](#) (February 2025), page 139

³⁴ The Crime and Policing Act 2026, [Section 99](#) amended the Sexual Offences Act 2003, [Section 66B](#)

as ‘nudification’ software).³⁵ The legislation includes a defence where a person can prove that they took all reasonable steps to prevent the generator’s misuse to create, or facilitate the creation of, non-consensual intimate images.

The maximum sentence is a term of imprisonment not exceeding the statutory maximum in the Magistrates’ Court (currently 6 months) and/or a fine. On indictment the maximum penalty is 3 years’ imprisonment and/or an unlimited fine.

2.2 Scotland

In Scotland, it is currently a criminal offence to disclose, or threaten to disclose, an intimate photograph or film where this is done either for the purpose of causing fear, alarm or distress to the person(s) featured in the image, or the perpetrator is reckless as to whether doing so would be likely to cause them fear, alarm or distress. This is contained in section 2 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016.³⁶

The offence covers both images that show a person in an intimate situation and images that appear to show a person in an intimate situation. This covers images that have been digitally manipulated so as to appear to depict someone in an intimate situation, even though the original image does not.

The Scottish Government recently consulted on new offences relating to the creation or requesting the creation of intimate images.³⁷ The approach being taken to these has been informed by the offences contained in the Data (Use and Access) Act 2025.

The Scottish Government is proposing that the creation offence may be committed in circumstances where a person intentionally creates a purported intimate image of another person without consent or a reasonable belief in

³⁵ Sexual Offences Act 2003, [Section 66](#). These offences came into force on 29 June 2026 via [The Crime and Policing Act 2026 \(Commencement No.1 and Saving Provision\) Regulations 2026](#)

³⁶ Abusive Behaviour and Sexual Harm (Scotland) Act 2016, [Section 2](#)

³⁷ Scottish Government, [Improving Protections in the Justice System for Women and Girls: Consultation](#) (February 2026)

consent.³⁸ A purported intimate image of a person means an image that appears to be (or include) a photograph or film of the person, appears to be of an adult and appears to show the person in an intimate state.

It is also proposed that the requesting creation offences can be committed in two different sets of circumstances:

- firstly, where a person intentionally requests the creation of a purported intimate image of another person without consent or a reasonable belief in consent
- secondly, where a person intentionally requests that, if a purported intimate image of another person is created, it includes or excludes something in particular (whether relating to appearance, the intimate state in which the person is shown or anything else) where this is done without consent or a reasonable belief in consent.

Alongside these new offences, the Scottish Government is also proposing to introduce legislation aimed at addressing 'nudification' apps.³⁹ This would criminalise the production, supply and the offering to supply of digital tools and services designed solely or principally to generate intimate images and videos. This would include as a subset of these tools any which are designed specifically to create non-consensual intimate images.

³⁸ Ibid, page 28

³⁹ Ibid, page 30

3 Asia-Pacific

3.1 South Korea

In 2024, South Korea brought in legislation that criminalises creation, alongside the possession, purchasing, saving or watching of sexually explicit deepfake images and videos.⁴⁰ This followed reports that thousands of men were using the messaging app Telegram to share photos of women and girls and using AI software to convert them into sexually explicit images.⁴¹

There are significant penalties contained within South Korea's Act on Special Cases Concerning the Punishment of Sexual Crimes.⁴² A person who creates a sexually explicit deepfake can face a maximum of 7 years in prison or a fine of up to ₩50 million (around £26,000). A person who possesses, purchases, saves or watches a sexually explicit deepfake can be punished with 3 years in prison or a fine of up to ₩30 million (around £15,000).⁴³

3.2 Australia

At a federal level, the eSafety Commissioner in Australia has wide-ranging regulatory functions and powers to take action against the non-consensual sharing of, or threat to share, intimate images online.⁴⁴ Under the provisions of the Online Safety Act 2021, this includes removal powers which allow the eSafety Commissioner to give notices to online service providers and end-users requiring them to remove an intimate image.

The Criminal Code Amendment (Deepfake Sexual Material) Act 2024 created a new offence where a person uses a carriage service (a telecommunications

⁴⁰ C. McGlynn and R. Toparlak, '[The 'new voyeurism': criminalizing the creation of 'deepfake porn'](#)' *Journal of Law and Society* (2025) 52: 204–228

⁴¹ BBC News, [Inside the deepfake porn crisis engulfing Korean schools](#) (September 2024)

⁴² Reuters, [South Korea to criminalize watching or possessing sexually explicit deepfakes](#) (September 2024)

⁴³ Act on Special Cases Concerning the Punishment of Sexual Crimes, Article 14-2 (Distribution of false video products), Accessed via [Korea Legislation Research Institute](#)

⁴⁴ eSafety Commissioner, [Image-Based Abuse Scheme Regulatory Guidance](#) (November 2025) and Online Safety Act 2021, [Part 6](#)

service) to transmit⁴⁵ sexual material which depicts (or appears to depict) another person (who is, or appears to be 18 years of age or over) when:

- the person knows the other person does not consent to the transmission or
- the person is reckless as to whether the other person consents to the transmission⁴⁶

This offence applies to both real (non-altered) material and material that has been created or altered using technology, such as deepfake AI.⁴⁷ This new offence carries a maximum prison sentence of 6 years.

However, there are exceptions for where the new offence will apply, including a broad exception where “a reasonable person would consider transmitting the material to be acceptable” having regard to a number of factors.

The legislation also creates two new aggravated offences which may apply where a person commits the underlying offence and additionally where:

- the offender is also responsible for the creation or alteration of the material
- the offender has previously transmitted sexual material without consent after 3 or more civil penalty orders were made.⁴⁸

These offences attract a maximum penalty of 7 years’ imprisonment. A teenager was the first person to be charged with offences under the new law earlier in 2026.⁴⁹

This legislation only criminalises the creation of an intimate image where an offender has been proven to have committed the underlying distribution offence.

⁴⁵ Transmit includes make available, publish, distribute, advertise and promote. There is no requirement that transmission be directed to the public and therefore it is likely circulation amongst private groups is criminalised.

⁴⁶ O. Griffiths, [Criminal Code Amendment \(Deepfake Sexual Material\) Bill 2024](#) Bills Digest No. 81 2023-2024 (August 2024)

⁴⁷ [Criminal Code Amendment \(Deepfake Sexual Material\) Act 2024](#) which amended the Criminal Code Act 1995, [Section 474.17A](#)

⁴⁸ Criminal Code Act 1995, [Section 474.17AA](#)

⁴⁹ BBC News, [Australian pleads guilty to creating deepfake porn in landmark case](#) (April 2026)

However, some Australian states have taken further action to criminalise the non-consensual production, distribution and threatened distribution of intimate images.

3.2.1 Victoria

In 2022, Victoria introduced offences that prohibit producing, distributing or threatening to distribute intimate images of adults.⁵⁰ The Second Reading speech on the legislation expressly stated that the new provisions were intended to apply to sexually explicit deepfake images.⁵¹ The Minister stated that it “*expands the definition of ‘intimate image’ to include digitally created images in order to capture ‘deepfake porn’, where an image is generated, manipulated or altered to appear to depict the victim/survivor*”.⁵²

Sections 53R, 53S and 53T prohibit a person from producing, distributing or threatening to distribute intimate images of another person without consent, where the production or distribution of the intimate image is contrary to community standards of acceptable conduct.⁵³

An ‘intimate image’ within the legislation is defined as meaning an image depicting a person in various sexualised contexts or ways.⁵⁴ An ‘image’ may be “(a) still, moving, recorded or unrecorded; and (b) digitally created by (i) generating the image; or (ii) altering or manipulating another image”. To ‘produce’ an image means to film, record, take or otherwise capture the image, or to digitally create the image.

⁵⁰ Justice Legislation Amendment (Sexual Offences and Other Matters) Act 2022, [Part 3](#) which inserted Crimes Act 1958, [Part 1, Division 1, Subdivision 8FAAB](#)

⁵¹ Parliament of New South Wales Parliamentary Research Service, [Sexually Explicit Deepfakes and the Criminal Law in NSW](#) (April 2025), page 18

⁵² H. Shing, [Second Reading speech to the Justice Legislation Amendment \(Sexual Offences and Other Matters\) Bill 2002](#), *Vic Hansard* (18 August 2022)

⁵³ Crimes Act 1958, [Part 1, Division 1, Subdivision 8FAAB](#)

⁵⁴ Crimes Act 1958, [Section 53O](#) defines an intimate image as an image depicting “(a) a person engaged in sexual activity; (b) a person in a manner or context that is sexual; (c) the genital or anal region of a person (whether bare or covered by underwear); (d) if a person is female or a transgender or intersex person identifying as female, the breasts of the person”.

The offences apply exclusively to sexually explicit images, including sexually explicit deepfakes that were produced either by altering an existing image or by synthesising or generating a new image. However, sexually explicit deepfakes that are in the form of audio or text are not within their scope.⁵⁵ Each offence carries a maximum penalty of imprisonment of 3 years.

3.2.2 New South Wales

In 2025, New South Wales expanded intimate image offences by making it an offence for a person to (or threaten to):

- alter images or audio of another person without the other person's consent so that the image or audio is intimate image or audio material⁵⁶ or
- create intimate image or audio material of a simulated person without the consent of the real person whom the image or audio is meant to represent.⁵⁷

These offences are designed to cover intimate images created entirely using artificial intelligence. They also cover the non-consensual creation of sexually explicit audio, whether real or designed to sound like a real, identifiable person.⁵⁸ The offences carry a maximum penalty of imprisonment of 3 years.

3.2.3 South Australia

In 2025, the Government of South Australia introduced legislation creating new offences to target the creation, distribution (and threats to distribute) invasive depictions of a simulated person that have been wholly generated by AI or other

⁵⁵ Parliament of New South Wales Parliamentary Research Service, [Sexually Explicit Deepfakes and the Criminal Law in NSW](#) (April 2025), page 19

⁵⁶ [Crimes Amendment \(Intimate Image and Audio Material\) Act 2025](#) amended the Crimes Act 1900, [Section 91PA](#)

⁵⁷ [Crimes Amendment \(Intimate Image and Audio Material\) Act 2025](#) amended the Crimes Act 1900, [Section 91R](#)

⁵⁸ NSW Government, [NSW Government strengthens protections against deepfakes and image-based abuse](#) (September 2025)

digital technology.⁵⁹ This can include wholly AI-generated deepfakes of a real person that are of a sexually explicit nature which have been created or shared without a person's consent.⁶⁰

The legislation defines artificially generated content as covering “audiovisual, visual or audio content that is generated wholly by artificial intelligence or is created by a person or persons solely using digital technology”. The references to a simulated person mean a person depicted in artificially generated content that “purports to be a depiction of a particular real person or 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”.

The invasive depiction of a simulated person includes performing a private act (a sexual act, an act carried out in a sexual matter or urinating/ defecating) or being in a state of undress. 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”.

Under the legislation, a person who creates or distributes an invasive depiction of a simulated person can face a maximum penalty of up to AU\$10,000 or imprisonment for 2 years. In addition, if the simulated person purports to be a real person who is under the age of 17 years then the maximum penalty can be up to AU\$20,000 or imprisonment for 4 years.

For both the creation and distribution offences, it is a defence to prove that the invasive depiction occurred with the written consent of each real person depicted.

The legislation also contains an offence of a threat to distribute an invasive depiction of a simulated person where an offender intends to arouse a fear that

⁵⁹ [Summary Offences \(Humiliating, Degrading or Invasive Depictions\) Amendment Act 2025](#) amended the Summary Offences Act 1953 by inserting [Part 5B](#)

⁶⁰ Government of South Australia Attorney General's Department, [Nation-leading changes tackling the dark side of Artificial Intelligence](#) (November 2025)

the threat will be, or is likely to be, carried out, or is recklessly indifferent as to whether such a fear is aroused.

The maximum penalty for this offence is AU\$5,000 or imprisonment for 1 year. In addition, if the simulated person purports to be a real person who is under the age of 17 years or a threat is made to a person under the age of 17 then the maximum penalty can be up to AU\$10,000 or imprisonment for 2 years.

3.2.4 Queensland and Tasmania

In April 2026, the Queensland Government announced plans for legislation to introduce new laws to criminalise the creation of non-consensual intimate images generated or altered using digital technology.⁶¹ At the time of writing, the legislation had not been published.

In July 2026, the Tasmanian Government announced plans to develop new legislation focusing on intimate image abuse, including the use of AI to create deepfakes.⁶² A draft Bill is due to be available for public consultation by the end of 2026.

3.3 New Zealand

In New Zealand, the Harmful Digital Communications Act 2015 currently makes it an offence to post a digital communication that is an intimate visual recording of a victim without consent (or being reckless as to whether the victim consented).⁶³ The maximum penalty for this offence is 2 years' imprisonment or a \$50,000 NZD fine (around £22,000).

The definition of an intimate visual recording is linked to the Crimes Act 1961 which includes a recording (a photograph, videotape, or digital image) taken without the consent or awareness of the person when naked, or engaged in sexual activity or other personal bodily acts such as showering or toileting.⁶⁴

⁶¹ Queensland Government, [Crisafulli Government to criminalise AI 'deepfake' abuse](#) (April 2026)

⁶² Tasmanian Government, [Taking action to protect Tasmanians from image-based abuse](#) (July 2026)

⁶³ The Harmful Digital Communications Act 2015, [Section 22A](#)

⁶⁴ The Crimes Act 1961, [Section 216G](#)

This legislation also includes offences related to making, publishing or possessing⁶⁵ an intimate visual recording with penalties on conviction of up to 3 years in prison. Both pieces of legislation do not currently cover sexually explicit deepfake images.

In May 2025, a Member's Bill was introduced in the New Zealand Parliament which would expand the definition of an intimate visual recording to explicitly include images created, synthesised or altered to show a person's likeness produced without consent.⁶⁶ The Bill would also insert a new definition of a "subject" to mean an "individual who is, or appears to be, featured or depicted in the recording". The Bill also appears to suggest that the same penalties for other intimate visual recordings would apply so a maximum of 3 years' imprisonment (under the Crimes Act 1961) or 2 years' imprisonment or a \$50,000 NZD fine (under the Harmful Digital Communications Act 2015).

In May 2026, the Bill had its First Reading and is being considered by the Social Services and Community Select Committee until November 2026.

4 North America

4.1 United States of America

At the federal level, the TAKE IT DOWN Act (Tools to Address Known Exploitation by Immobilizing Technological Deepfakes on Websites and Networks Act), signed into law in May 2025, created federal offences for knowingly publishing or threatening to publish non-consensual intimate visual depictions or digital forgeries of an identifiable person, including AI-generated sexual deepfakes of both adults and minors.

⁶⁵ The Crimes Act 1961, [Section 216I](#) states "(1) Everyone is liable to imprisonment for a term of up to 3 years who has in their possession an intimate visual recording (a) for the purpose of publishing, exporting or selling the intimate visual recording; and (b) knowing it to be an intimate visual recording, or being reckless as to whether it is an intimate visual recording. (2) Everyone is liable to imprisonment for up to 1 year who, without reasonable excuse, has in their possession an intimate visual recording knowing it to be an intimate visual recording".

⁶⁶ [Deepfake Digital Harm and Exploitation Bill](#) (October 2025)

For the publication-related offences involving depictions of adults, in addition to knowingly publishing the material, the person must have intended the publication to cause harm, or that the publication did cause the identifiable individual harm, including “psychological, financial, or reputational harm”.⁶⁷ The offences involving depictions of adults also contain elements relating to consent and content:

- that an authentic intimate visual depiction “was obtained or created under circumstances in which the person knew or reasonably should have known the identifiable individual had a reasonable expectation of privacy”
- that “what is depicted was not voluntarily exposed by the identifiable individual in a public or commercial setting” and
- that “what is depicted is not a matter of public concern”.⁶⁸

In addition, the Act makes it unlawful to intentionally threaten to commit one of the publication related offences “for the purpose of intimidation, coercion, extortion, or to create mental distress”.⁶⁹

A person who commits one of the publication (or threat to publish) offences pertaining to intimate visual depictions of adults can face criminal fines, imprisonment of up to 2 years (or both). The penalties for publishing (or threatening to publish) depictions of minors are greater, with potential imprisonment of up to 3 years.

The TAKE IT DOWN Act also requires certain websites and online or mobile applications to implement a “notice-and-removal” process to remove such images at the depicted individual’s request.⁷⁰

The DEFIANCE Act (Disrupt Explicit Forged Images and Non-Consensual Edits Act) would also create a federal civil right of action against individuals who knowingly produce, distribute, solicit and receive, or possess with the intent to

⁶⁷ [S.146 TAKE IT DOWN Act](#)

⁶⁸ Congressional Research Service, [The TAKE IT DOWN Act: A Federal Law Prohibiting the Nonconsensual Publication of Intimate Images](#) (May 2025)

⁶⁹ Ibid

⁷⁰ Ibid

distribute non-consensual sexually-explicit digital forgeries.⁷¹ In January 2026, this legislation was passed by the Senate but remains under consideration by the House Judiciary Committee.

A number of states in the USA have enacted laws which take a comprehensive approach to criminalising the dissemination of sexually explicit deepfake images. For example, Minnesota,⁷² New York⁷³ and California.⁷⁴ In 2026, Minnesota became one of the first states in the USA to prohibit a person who owns or controls a website or app from allowing users to access, download or use nudification technology and provides for a range of civil penalties.⁷⁵

A smaller number of states have enacted laws which also target the creation of these images (without further sharing). The approach taken by two states to this issue are explored in greater detail in the following sections.

4.1.1 Texas

In 2023, legislation was passed to amend the Penal Code in Texas to create the Class A misdemeanour offence of unlawful production or distribution of certain sexually explicit videos for a person who, without the effective consent of the person appearing to be depicted, knowingly produces or distributes by electronic means a deepfake video that appears to depict the person with the person's intimate parts exposed or engaged in sexual conduct.⁷⁶ A class A misdemeanour offence can result in up to 1 year in prison or a maximum fine of \$4,000.⁷⁷

⁷¹ US Senate Committee on the Judiciary, [Durbin Successfully Passes Bill To Combat Nonconsensual, Sexually-Explicit Deepfake Images](#) (January 2026)

⁷² Minnesota Statutes 617.262 added by [Chapter 58, H.F. 1370](#) (passed in 2023)

⁷³ Penal Law [Section 245.15](#) (amended in 2023 to cover intimate images created or altered by digitisation)

⁷⁴ Penal Code [Section 647](#) (amended by [SB-926 Crimes: Distribution of Intimate Images](#) in September 2024)

⁷⁵ Minnesota House Research, [Nudification Technology: H.F. 1606 Bill Summary](#) (March 2026) and Minnesota Statutes 325E.91 added by [Chapter 72, Section 1, H.F. 1606](#) (May 2026)

⁷⁶ [S.B. No. 1361](#) amended Penal Code, Chapter 21 by adding [Section 21.165](#)

⁷⁷ Texas House Research Organisation Bill Digest, [Creating offense for producing explicit videos using certain technology](#) (May 2023)

In 2025, the Penal Code was further amended to expand on the existing offence to include “deep fake media” which includes any visual depiction or media created or altered through computer-generated or technological means, including artificial intelligence.⁷⁸

The legislation also created an offence for a person who intentionally threatens to produce or distribute sexually explicit deep fake media with the intent to coerce, extort, harass, or intimidate another person. This offence is a Class B misdemeanour (6 months in prison or a fine of up to \$2,000) but can be upgraded to a Class A if an offender has a previous conviction for this offence (or the deep fake media appears to depict a person under the age of 18).

The legislation also sets out civil provisions relating to liability for the unlawful production, solicitation, disclosure, or promotion of certain artificial intimate visual material, including the liability of owners of websites or applications, social media platforms, certain AI applications and payment processors.⁷⁹

The owner of a website or application, including a social media platform, is required to provide an easily accessible system that allows requests for the removal of artificial intimate visual material from the website or application. Website and platform operators face liability if they recklessly facilitate production or fail to remove content within 72 hours of a removal request.

4.1.2 Florida

In 2025, Florida passed legislation which prohibits a person from wilfully generating an altered sexual depiction of an identifiable person without consent. Generate is defined as meaning “to create, alter, adapt, or modify any image by electronic, mechanical, or other computer-generated means to portray an identifiable person”. This offence is a third degree felony which can be punishable by up to 5 years in prison or a \$5,000 fine.⁸⁰

⁷⁸ [S.B. No. 441](#) amended Penal Code, Chapter 21 by adding [Section 21.165](#)

⁷⁹ [S.B. No. 441](#) amended Civil Practice and Remedies Code, [Chapter 98B](#)

⁸⁰ [CS/CS/HB 757 - Sexual Images](#) amended Florida Statute on Crimes (Defamation, Libel, Threatening Letters and Similar Offenses), [Chapter 836.13](#)

It is also a third degree felony for a person to solicit any altered sexual depiction of an identifiable person, without consent, when the person knows or reasonably should have known that this was an altered sexual depiction.

The legislation also prohibits a person from possessing, with the intent to maliciously promote, an altered sexual depiction of an identifiable person without consent, when the person promoting the altered sexual depiction knows or reasonably should have known that such a depiction was an altered sexual depiction. This offence is also a third degree felony.

An “altered sexual depiction” means any visual depiction that, as a result of any type of digital, electronic, mechanical, or other modification, alteration, or adaptation, depicts a realistic version of an identifiable person:

- with the nude body parts of another person as the nude body parts of the identifiable person
- with computer-generated nude body parts as the nude body parts of the identifiable person or
- engaging in sexual conduct in which the identifiable person did not engage.⁸¹

The legislation also provides for a person portrayed in an altered sexual depiction without consent to be able to initiate civil legal action against a person who wilfully generates the depiction or who possesses such an altered sexual depiction with the intent to maliciously promote it. Options for appropriate relief include monetary damages of up to \$10,000.

4.2 Canada

In June 2026, legislative amendments were made through the Protecting Victims Act (Bill C-16) to include deepfakes in the offence of distributing an intimate image without consent.⁸² The definition of an intimate image now encompasses “a visual representation that is made by any electronic or

⁸¹ Florida House of Representatives, [Final Bill Analysis](#) (June 2025)

⁸² Parliament of Canada, [Bill C-16: An Act to amend certain Acts in relation to criminal and correctional matters \(child protection, gender-based violence, delays and other measures\)](#) (June 2026)

mechanical means and that shows an identifiable person depicted as nude, as nearly nude, as exposing their sexual organs or as engaged in explicit sexual activity, if the depiction is likely to be mistaken for a visual recording of that person”.⁸³ The offence is punishable by a maximum of 10 years’ imprisonment on indictment.

Within this broader definition, the legislation also introduces a new offence of threatening to distribute an intimate image.⁸⁴ The new offence includes the following elements:

- the accused knew or was reckless as to whether the person depicted would give their consent or
- the accused, with intent to intimidate or to be taken seriously, knowingly threatened the person depicted in the image.⁸⁵

The maximum penalties for this hybrid offence mirror the penalties for the offence of distributing an intimate image without consent:

- a fine of up to \$5,000 CAD (around £2,600) or a term of imprisonment of up to 2 years on summary conviction or
- a term of imprisonment of up to 10 years on indictment.⁸⁶

The legislation also provides that a person convicted of the new offence of threatening to distribute an intimate image may now be prohibited from using the internet, except as permitted by conditions set by the court.⁸⁷

⁸³ Protecting Victims Act, [Section 15\(2\)](#)

⁸⁴ Parliament of Canada Library, [Legislative Summary of Bill C-16: An Act to amend certain Acts in relation to criminal and correctional matters \(child protection, gender-based violence, delays and other measures\)](#) (February 2026)

⁸⁵ Protecting Victims Act, [Section 15\(2\)](#)

⁸⁶ Parliament of Canada Library, [Legislative Summary of Bill C-16: An Act to amend certain Acts in relation to criminal and correctional matters \(child protection, gender-based violence, delays and other measures\)](#) (February 2026)

⁸⁷ Protecting Victims Act, [Section 16](#)

5 EU Member States

A number of EU member states have criminalised the distribution of (and threats to distribute) sexually explicit deepfake images. The EU's Directive on Combatting Violence Against Women and Domestic Violence includes provisions seeking to criminalise the non-consensual sharing (including threats) of intimate image material with specific reference to the "producing, manipulating or altering" of images generated by AI.⁸⁸ However, only a small number of member states have criminalised the creation of sexually explicit deepfake images using AI technology (without further sharing).⁸⁹

There is also a move in some states, such as Denmark, towards a novel approach to address deepfakes involving the use of copyright law to provide personality-related protection.⁹⁰ Further information can be found in the sections below.

5.1 The Netherlands

In 2024, the Netherlands introduced new offences to the Dutch Criminal Code to criminalise non-consensual sexual deepfakes.⁹¹ This covers not only the

⁸⁸ This directive aims to set minimum rules on the definition of criminal offences and penalties, access to justice, victim support and prevention across member states. See [Directive \(EU\) 2024/1385 of the European Parliament and of the Council of 14 May 2024 on combating violence against women and domestic violence](#) (May 2024), Article 5. Member states have until June 2027 to comply with the Directive.

⁸⁹ C. Rigotti and C. McGlynn, 'Towards an EU Criminal Law on Violence against Women: The Ambitions and Limitations of the Commission's Proposal to Criminalise Image-Based Sexual Abuse' (2022) *New Journal of European Criminal Law* 13(4), 452-477 and C. Rigotti et al. 'Image-Based Sexual Abuse and EU Law: A Critical Analysis' (2024) *German Law Journal* 25(9), 1472-1493

⁹⁰ European Commission, [Blog: Denmark's proposed copyright rules on deepfakes](#) (June 2026)

⁹¹ Government of the Netherlands, [New Sexual Offences Act now effective](#) (July 2024) and Dutch Criminal Code, [Article 254ba](#) Translated to English via Google Translate. The provision in full states: "1. A person who: a) intentionally and unlawfully creates a visual representation of a sexual nature of another person; b) is in possession of a visual representation as referred to under (a), while knowing or reasonably having to suspect that it was obtained through or as a result of an act punishable under (a); shall be liable to imprisonment for a term not exceeding 1 year or a fine of the fourth category. 2. A person who: a) makes public a visual representation as referred to in paragraph 1(a), while knowing or reasonably having to suspect that it was obtained through or as a result of an act punishable under paragraph 1(a); b) makes public a visual representation of a sexual nature of another person, while knowing that such disclosure may be detrimental to that person; shall be liable to imprisonment for a term not exceeding 2 years or a fine of the fourth category".

dissemination of non-consensual sexual deepfakes, but also their creation, and even their mere possession.

The Code criminalises the production of a sexual image of a person without the knowledge or consent of the portrayed person. It also criminalises the possession of such a sexual image, when the holder of these images knew or reasonably should have known that the image was created deliberately and without the knowledge or consent of the portrayed person.⁹² These offences can be punished by up to 1 year in prison or a fine.

Furthermore, the Code also focuses on the distribution of sexual images of a person, when the holder of these images knew or reasonably should have known that the sexual image was produced deliberately and without the knowledge or consent of the portrayed person, or when the holder of the image is aware the publication of the sexual image is harmful for the person involved.⁹³ These offences can be punished by up to 2 years in prison or a fine.

The Dutch model offers comprehensive regulation of non-consensual sexual deepfakes by punishing a range of forms of engagement with this material. It appears to focus on the profound wrongness of non-consensual sexual deepfakes and signals that no conduct which contributes, even indirectly, to this issue will be tolerated.⁹⁴

Prior to July 2024, it was unclear whether deepfakes were covered under provisions relating to the intentional and unlawful making of an image of a sexual nature in Article 139h of the Dutch Criminal Code (revenge porn).⁹⁵ In 2023, a Dutch court found that the criminalisation for revenge porn in Article

⁹² S. Royer et al. '[An empirical and legal analysis of sexual deepfakes in the EU, Belgium and the Netherlands](#)' (2024) *International Review of Penal Law* 95(2), 459-482

⁹³ Ibid

⁹⁴ F. Fedorczyk '[The EU approach to non-consensual sexual deepfakes: criminal law, tech regulation and the risk of fragmentation](#)' (2025) *European Criminal Law Review* 15(3), 314-342

⁹⁵ S. Royer et al. '[An empirical and legal analysis of sexual deepfakes in the EU, Belgium and the Netherlands](#)' (2024) *International Review of Penal Law* 95(2), 459-482

139h can include a situation in which a non-consensual sexual deepfake of a person is produced and distributed.⁹⁶

In this high profile case, a Dutch female presenter became the victim of a sexually explicit deepfake in which her face was swapped with the face of a female performer in a pornographic video. This video was created upon request and uploaded to a specialised pornography website focusing on deepfakes.⁹⁷ The court sentenced the defendant to a fully suspended community service of 180 hours.⁹⁸

5.2 Denmark

There are a number of legal frameworks relevant at an EU level to the issue of deepfakes. This includes the Digital Services Act which sets EU-wide rules on content moderation that cover the detection, flagging and removal of illegal content, as defined either at EU or national level, aimed at protecting users from harm.⁹⁹ Providers of very large online platforms must also carry out a risk assessment that includes the risk of illegal content being disseminated through their services alongside taking measures to mitigate any risks they identify.¹⁰⁰

The EU's AI Act also introduces new transparency requirements for deployers of AI technology, including disclosing that content was artificially created or manipulated.¹⁰¹ In June 2026, the European Council and Parliament agreed to a

⁹⁶ C. McGlynn and R. Topalak, '[The 'new voyeurism': criminalizing the creation of 'deepfake porn'](#)' *Journal of Law and Society* (2025) 52: 204–228

⁹⁷ S. Royer et al. '[An empirical and legal analysis of sexual deepfakes in the EU, Belgium and the Netherlands](#)' *International Review of Penal Law* 95(2), 459-482

⁹⁸ District Court of Amsterdam, [Case Number 13/338284-22](#) (November 2023) Translated to English via Google Translate

⁹⁹ [Regulation \(EU\) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services \(Digital Services Act\)](#) (October 2022)

¹⁰⁰ Ibid, Article 34-35

¹⁰¹ [Regulation \(EU\) 2024/1689 of the European Parliament and of the Council of 13 June 2024](#) (June 2024), Article 50(4) and European Parliament, [EU AI Act: first regulation on artificial intelligence](#) (June 2023) and European Commission, [Commission starts enforcing AI Act rules and new transparency requirements on 2 August](#) (July 2026)

new measure in the AI Act to prohibit AI systems that generate non-consensual sexual and intimate content of an identifiable person.¹⁰²

Some EU member states have sought to go further than this by introducing legislation aimed at strengthening protections against digital imitations of people's identities. In June 2025, Denmark proposed tackling AI-generated deepfakes by protecting people's personal characteristics, including appearance and voice, through copyright law.¹⁰³ An independent review had previously made a number of recommendations on amending Denmark's legal regime for tackling deepfakes, including exploring whether the "making or possessing of intrinsically criminal (morally reprehensible) deepfakes should be criminalised".¹⁰⁴

Denmark is instead proposing broader changes which involve general protection against realistic digitally generated imitations of personal characteristics and protection against realistic digitally generated imitations of performers.¹⁰⁵ They require consent from the person who is imitated to the making available of relevant content with the protection lasting for 50 years after the death of that person. Expressions of caricature, satire and parody are, in principle, excluded.¹⁰⁶ Enforcement would be governed by the EU Digital Services Act.¹⁰⁷ The changes to copyright law are expected to come into force later in 2026.

¹⁰² Companies will have until 02 December 2026 to bring their systems in line. See European Parliament, [AI Act: EP approves simplification measures and "nudifier" app ban](#) (June 2026)

¹⁰³ The Guardian, [Denmark to tackle deepfakes by giving people copyright to their own features](#) (June 2025) and Danish Ministry of Culture, [Broad Agreement on Deepfakes gives Everyone the right to their own Body and Voice](#) (June 2025) Translated to English via Google Translate

¹⁰⁴ B. van der Sloot et al. '[Deepfakes: The Legal Challenges of a Synthetic Society](#)' Tilburg Institute for Law, Technology and Society (November 2021), page 8

¹⁰⁵ European Parliamentary Research Service, [The Danish approach to copyright and deepfakes: A model for the EU?](#) (January 2026) and European Commission, [Act amending the Copyright Act \(Introduction of performance protection and protection against digitally generated imitations, etc.\)](#) (October 2025)

¹⁰⁶ Ibid

¹⁰⁷ Ibid

Other EU member states have generally supported action in this field.¹⁰⁸

However, there is a debate as to whether these new copyright protections are necessary and if they are being created on top of an existing fragmented patchwork of various legal and regulatory frameworks covering, for example, image rights, unlawful advertising, competition law and data protection rules (GDPR).¹⁰⁹

In Denmark, the production and dissemination of deepfakes extend beyond the remit of copyright law with the Criminal Code prohibiting, for example, identity theft, fraud and distribution of non-consensual sexual material.¹¹⁰ Some commentators have contended that the approach of extending copyright protection may bring limited added value and that it may be worth focusing instead on enforcement.¹¹¹

Similar proposals have also been made to amend the existing legislative framework in the Netherlands by way of a Private Member's Bill which would create a new neighbouring right (a category of intellectual property right) in relation to deepfakes.¹¹² This right would allow performers and all other natural persons to either forbid deepfakes of their voice or appearance or to set specific

¹⁰⁸ Danish Presidency Council of the European Union, [Declaration on the necessity of culture and media as a safeguard for our European democracies](#) (November 2025) and Danish Ministry of Culture, [The Minister of Culture wants to Spread Deepfake Law to the rest of Europe](#) (July 2025) Translated to English via Google Translate

¹⁰⁹ P. Bernt Hugenholtz, ['Deepfake Bills in Denmark and the Netherlands: Right idea, wrong legal framework'](#) Kluwer Copyright Blog (August 2025)

¹¹⁰ Under Section 264d of Denmark's [Criminal Code](#), a person who unlawfully disseminates communications or images concerning another person's private affairs, or images of that person in circumstances where it is clearly reasonable that they should be withheld from the general public, is liable to imprisonment of up to 6 months. This can be increased to 3 years if there are particularly aggravating circumstances. Under Section 264e, identity theft is punishable by a fine or imprisonment of up to 6 months for anyone who, without justification: 1) uses information about another person, including their personal identification number, name and image, to improperly impersonate that person or 2) discloses material, including sexual material, in which information about another person, including their personal identification number, name and image, has been used to improperly manipulate that person's appearance. European Commission, [Act amending the Copyright Act \(Introduction of performance protection and protection against digitally generated imitations, etc.\)](#) (October 2025)

¹¹¹ Privacy Company, [Deepfakes and the GDPR](#) (July 2025) cited in European Parliamentary Research Service, [The Danish approach to copyright and deepfakes: A model for the EU?](#) (January 2026)

¹¹² Leiden University, [Danish citizens to get copyright to their whole body – what about the Netherlands?](#) (July 2025)

conditions for giving consent.¹¹³ It would also be exercisable after the person's death for 70 years by their next of kin.

5.3 Republic of Ireland

The Harassment, Harmful Communications and Related Offences Act 2020, also known as Coco's Law, provides for offences dealing with the non-consensual distribution of intimate images.¹¹⁴

The legislation defines an intimate image as "any visual representation (including any accompanying sound or document) made by any means including photographic, film, video or digital representation" which depicts a person in an intimate way.¹¹⁵ The Minister for Justice, Home Affairs and Migration has previously stated that this broad definition covers AI-generated materials and deepfakes.¹¹⁶

This legislation makes it an offence to distribute or publish (including threats to distribute or publish) intimate images without a person's consent with the intent to cause harm, or being reckless as to whether harm is caused.¹¹⁷

Under this part of the Act, harm is caused where the distribution or publication of the intimate image, or threats to do so, intentionally or recklessly seriously interfere with the other person's peace and privacy or cause alarm or distress to the other person and, are such that a reasonable person would realise that the acts would do so. The definition of harm in the legislation includes psychological harm.

¹¹³ D. Visser, '[Deepfakes under a Neighbouring Right](#)' Leiden Law School (October 2024)

¹¹⁴ Coco's Law was named after Nicole 'Coco' Fox. For more information see Irish Times, '[I had to lose my daughter for everyone else to gain': Students told of consequences of Coco's Law](#)' (March 2026)

¹¹⁵ Harassment, Harmful Communications and Related Offences Act 2020, [Section 1](#)

¹¹⁶ Dáil Éireann Debate, [Legislative Measures Question No. 584](#) (17 June 2025)

¹¹⁷ Harassment, Harmful Communications and Related Offences Act 2020, [Section 2](#)

On summary conviction, the maximum penalty is a term of imprisonment of 12 months and/or a fine of up to €5,000. On indictment the maximum penalty is 7 years' imprisonment and/or a fine.

The legislation also makes it an offence to record, distribute or publish an intimate image of another person without consent where this seriously interferes with the other person's peace and privacy or causes alarm, distress or harm.¹¹⁸

On summary conviction, the maximum penalty is a fine of up to €5,000 or imprisonment for a period of up to 12 months (or both).

Separately, the Child Trafficking and Pornography Act 1998 criminalises the production, distribution, and possession of child sexual abuse material. This legislation makes no distinction between AI-generated material and other child sexual abuse material. The definition of "child pornography" covers any visual representation including "reference to a figure resembling a person that has been generated or modified by computer-graphics or otherwise".¹¹⁹

The Irish Government's AI Advisory Council provides advice on all aspects of artificial intelligence and published a report last year which included advice on deepfakes.¹²⁰ This recommended that the Government consider introducing a specific law prohibiting the creation of digital deepfakes of individuals without their consent, given the potential misuse of widely available technology that can digitally clone the image, likeness and/or voice of individuals.

In 2026, two Private Members' Bills were introduced in Dáil Éireann on the issue of sexually explicit deepfake images. The first Bill completed its Second Stage in February 2026 and seeks to specifically include AI generated images within the definition of intimate image contained in the 2020 Act.¹²¹

It also seeks to increase the penalties contained in the 2020 Act for recording, distributing or publishing an intimate image without consent, including AI

¹¹⁸ Harassment, Harmful Communications and Related Offences Act 2020, [Section 3](#)

¹¹⁹ Child Trafficking and Pornography Act 1998, [Section 2\(2\)](#)

¹²⁰ Department of Enterprise, Tourism and Employment, [AI Advisory Council Recommendations: Helping to Shape Ireland's AI Future](#) (February 2025)

¹²¹ [Harassment, Harmful Communications and Related Offences \(Amendment\) Bill 2026](#)

generated images. It would allow conviction on indictment, resulting in a fine or imprisonment for a term of up to 5 years (or both).

A further Private Member's Bill seeks to amend the law relating to the recording, distribution or publication of intimate images so as to extend its provisions to images that are generated or modified by computer-graphics.¹²² It also seeks to impose liability on social media platforms that make software available to facilitate the generation of such images.

5.4 France

In 2024, France amended its Criminal Code to address the dissemination of algorithmically generated visual or audio content representing a person's image or words without their consent, where the artificial nature of the content is not obvious or expressly mentioned.¹²³ This is punishable by imprisonment of 1 year and a fine of €15,000.

France also introduced a specific offence for sexually explicit deepfakes which is punishable by 2 years' imprisonment and a fine of €60,000.¹²⁴ This prohibits the act of sharing visual or audio content of a sexual nature generated by algorithmic processing and representing the image or speech of a person, without their consent. The focus is on the absence of consent and there is no requirement to establish likely serious harm. In addition, the penalties can be increased to 3 years' imprisonment and a fine of €75,000 when the publication of the content generated by algorithmic processing was carried out using an online public communication service. Only creation for private individual use falls outside the scope of the provisions.¹²⁵

¹²² [Harassment, Harmful Communications and Related Offences \(Amendment\) \(No. 2\) Bill 2026](#)

¹²³ Criminal Code, [Article 226-8](#) Translated to English via Google Translate

¹²⁴ Criminal Code, [Article 226-8-1](#) Translated to English via Google Translate

¹²⁵ F. Fedorczyk 'The EU approach to non-consensual sexual deepfakes: criminal law, tech regulation and the risk of fragmentation' (2025) *European Criminal Law Review* 15(3), 314-342

5.5 Germany

In 2024, the German Institute for Human Rights found that offences relating to image-based sexual violence provide a “confusing patchwork stitched together from a wide variety of provisions that creates substantial gaps in protection”.¹²⁶

Germany’s Criminal Code currently criminalises an individual who knowingly or intentionally, without authorisation, creates or transmits a photograph or other image “of the genitals, buttocks, female breast of another person, or of underwear which is covering those parts of the body” and makes this available to a third party. This offence typically relates to upskirting or downblousing and can incur a penalty of up to 2 years’ imprisonment.¹²⁷

A number of provisions in the Criminal Code can be used to address revenge pornography. This includes the offence of stalking which covers a range of activities, such as the restriction of a person’s lifestyle by repeatedly disseminating to the public a depiction of that person. This carries a penalty of up to 3 years in prison.¹²⁸

The Criminal Code does not currently cover the creation or distribution of sexually explicit deepfake images generated using AI. There was significant debate in Germany on this issue recently following media coverage of the experiences of a prominent actor and TV personality who accused her ex-husband of spreading fake pornographic images of her online.¹²⁹

In April 2026, the Federal Ministry of Justice and Consumer Protection announced draft legislation against digital violence. This is intended to create a number of new criminal offences, covering image-based sexual violence in various manifestations.¹³⁰

¹²⁶ German Institute for Human Rights, [Monitoring Report: Violence Against Women, Implementation of the Istanbul Convention in Germany First Periodic Report](#) (December 2024)

¹²⁷ German Criminal Code, [Section 184k](#)

¹²⁸ German Criminal Code, [Section 238](#)

¹²⁹ CTV News, [German actor accuses ex-husband of spreading fake pornographic images of her online](#) (April 2026)

¹³⁰ Federal Ministry of Justice and Consumer Protection, [Better protection against digital violence: Federal Minister of Justice proposes adaptation of criminal and civil law](#) (April 2026)

It would amend the Criminal Code to cover the unauthorised production and distribution of intimate image material, regardless of the form of production (real or computer-generated recording) and where the image was created (private or public). This would apply in particular to sexually explicit deepfakes and cases of digital voyeurism (the secret filming or photographing in public places targeting unclothed intimate parts of the body).¹³¹

The legislation would cover any person who, without authorisation, creates an image or makes an image available to a third person that:

- depicts a sexual act performed by another person
- depicts the naked genitals, naked buttocks, or naked female breast of another person
- depicts, in a sexualised manner, the clothed genitals, clothed buttocks, or clothed female breast of another person
- has been altered, modified, or combined with other content by means of a computer program so as to create the impression that it depicts sexual acts or the naked genitals, naked buttocks, or naked female breast of another person.¹³²

6 Legislative Considerations

6.1 Emerging Legislative Approaches

The significant harms caused by sexually explicit deepfake images have been well documented through media reporting in recent years.¹³³ Lawmakers across a number of jurisdictions have taken action to tackle this issue with new criminal offences being implemented and, in some cases, new civil laws aimed at

¹³¹ Ibid

¹³² Federal Ministry of Justice and Consumer Protection, [Draft Law to Strengthen Civil and Criminal Protection against Digital Violence](#) (April 2026), new section 184k on page 12. Translated to English via Google Translate

¹³³ For example, The Guardian, [Use of AI to harm women has only just begun, experts warn](#) (January 2026) and BBC News, [How deepfake porn scandal surrounding TV star rocked Germany](#) (March 2026) and [Inside the deepfake porn crisis engulfing Korean schools](#) (September 2024)

reducing the prevalence of this material and providing redress options for victims.

6.2 Distribution and Sharing

Jurisdictions that have specifically addressed the issue of non-consensual sexually explicit deepfakes have tended to criminalise all forms of transmission or distribution of this material, often without requiring that the deepfake be produced by the person sharing it, that the sharing be directed to the public, or that it be likely to cause serious harm to a victim.

6.3 Threatening to Share

Threats to share intimate images without consent can in and of themselves have significant impacts on victims and this is also being increasingly recognised with a number of countries including the threatened sharing of sexually explicit deepfakes within their distribution focused offences.

6.4 Creation Offences

There is also a growing trend in some places, such as England and Wales, the Netherlands and Texas/Florida, where the mere creation of non-consensual sexual deepfakes is being criminalised as a standalone offence (or an aggravated offence where the offender has committed a distribution offence at the federal level in Australia). This consent-based offence generally does not require proof of an offender's motivation.

6.5 Solicitation and Requesting Creation

The solicitation of imagery, either directly between individuals or as part of an online community, is also a common way in which sexually explicit deepfakes are produced. This presents potential challenges depending on where the person creating and/or soliciting the actual imagery is based and some countries (e.g. England and Wales) have specifically included solicitation in their legislation to ensure that the variety of ways in which sexually explicit deepfakes are created and shared are covered.

6.6 Types of Material

The type of material covered by legislation on sexually explicit deepfakes varies across jurisdictions with most focusing on visual content, particularly images and videos depicting nudity, sexual activity or intimate body parts, which have been altered, manipulated or generated using AI.

A smaller number of jurisdictions have adopted broader definitions that extend beyond images and videos. For example, the new offences in New South Wales cover the non-consensual creation of sexually explicit audio, whether real or designed to sound like a real, identifiable person. South Australia similarly covers audiovisual, visual and audio content generated wholly by AI or digital technology.

6.7 Connection to a Real or Identifiable Person

Another common feature of the jurisdictions covered in the paper is that the sexually explicit deepfake must depict or be capable of being recognised as a real and identifiable person. For example, the Data (Use and Access) Act 2025 in England and Wales covers a “purported intimate image” which appears to be (or include) a photograph or film of another person.

Canada’s new legislation covers images that are likely to be mistaken for a visual representation of an identifiable person. Similarly, Florida, Texas, South Australia and New South Wales require the material to depict, represent or simulate a real or identifiable person. South Australia’s legislation specifically refers to a “simulated person” that a reasonable person would consider likely to be a depiction of a particular real individual.

6.8 Civil Remedies and Regulation

There is also an increasing focus in some jurisdictions on civil remedies and regulation of online platforms. The TAKE IT DOWN Act in the USA requires certain websites and online applications to remove sexually explicit deepfake images at a depicted individual’s request. In Florida, legislation provides for a person portrayed in a sexually explicit deepfake without consent to be able to

initiate civil legal action against a person who wilfully generates the depiction or who possesses it with the intent to maliciously promote it. Australia's eSafety Commissioner has powers under which removal notices can be given to online service providers requiring them to remove intimate images.

In the UK, regulated online platforms are required to proactively remove sexually explicit deepfakes or face enforcement action, and potentially fines, from Ofcom. In the EU, the European Council and Parliament also recently agreed to a new measure in the AI Act to prohibit AI systems that generate non-consensual sexual and intimate content of an identifiable person.

6.9 Alternative Legal Approaches

Finally, new approaches are also emerging in some jurisdictions, such as Denmark and the Netherlands, where changes to copyright and intellectual property laws are being proposed which aim to strengthen protections against digital imitations of people's identities.