

Data (Use and Access) Bill [HL]

AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

[Supplementary to the Fourth Marshalled List]

Amendment
No.

After Clause 132

BARONESS OWEN OF ALDERLEY EDGE
LORD BROWNE OF LADYTON
BARONESS KIDRON
LORD CLEMENT-JONES

211G★ After Clause 132, insert the following new Clause –

“Digitally created sexually explicit photographs or films

In the Sexual Offences Act 2003, after section 66D, insert –

“66E Creating or soliciting a non-consensual digitally produced sexually explicit photograph or film

- (1) A person (A) commits an offence if –
 - (a) A uses personal data or digital information, including a photograph or film, to create, or solicit the creation of, a digitally produced sexually explicit photograph or film of another person (B),
 - (b) B does not consent to the creation or solicitation of the photograph or film, and
 - (c) A does not reasonably believe that B consents.
- (2) For the purposes of subsection (1), it does not matter whether the data upon which the digitally produced sexually explicit photograph or film was based, was obtained consensually.
- (3) It is a defence for a person charged with an offence under subsection (1) to prove that the person had a reasonable excuse for creating, or soliciting the creation of, the photograph or film.
- (4) A person who commits an offence under subsection (1) is liable on summary conviction to imprisonment for a term not exceeding the maximum term for summary offences or a fine (or both).

- (5) In this section, “soliciting” means encouraging or facilitating the creation of a digitally produced sexually explicit photograph or film.
- (6) Where A is convicted of an offence under this section, the court may require A to delete any copies of a photograph or film, including physical copies and those held on any device, cloud-based programme, or digital or messaging platform they control.
- (7) In this section, “sexually explicit photograph or film” means a photograph or film, as defined in section 66A(3) to (5), which appears to be a photograph or film of anyone in an “intimate state” as defined in section 66D(5), (6) or (7).”

BARONESS OWEN OF ALDERLEY EDGE

211H★ After Clause 132, insert the following new Clause –

“Digitally created sexually explicit audio

In the Sexual Offences Act 2003, after section 66D, insert –

“66E Creating or soliciting a non-consensual digitally produced sexually explicit audio

- (1) A person (A) commits an offence if –
 - (a) A uses digital audio to create, or solicit the creation of digitally produced sexually explicit audio of another person (B),
 - (b) B does not consent to the creation or solicitation of the audio, and
 - (c) A does not reasonably believe that B consents.
- (2) For the purposes of subsection (1), it does not matter whether the data upon which audio was based was obtained consensually.
- (3) It is a defence for a person charged with an offence under subsection (1) to prove that the person had a reasonable excuse for creating, or soliciting the creation of, the audio.
- (4) A person who commits an offence under subsection (1) is liable on summary conviction to imprisonment for a term not exceeding the maximum term for summary offences or a fine (or both).
- (5) In this section, “soliciting” means encouraging or facilitating the creation of audio.
- (6) Where A is convicted of an offence under this section, the court may require A to delete any copies of audio, including physical copies and those held on any device, cloud-based programme, or digital or messaging platform they control.
- (7) In this section, “sexually explicit audio” means audio which appears to be audio of anyone in an “intimate state” as defined in section 66D(5)(a) or (b).”

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17 December 2024
