

FLORIDA HOUSE OF REPRESENTATIVES

FINAL BILL ANALYSIS

This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.

BILL #: [CS/CS/HB 1161](#)

TITLE: Removal of Altered Sexual Depictions Posted Without Consent

SPONSOR(S): Duggan

COMPANION BILL: [CS/SB 1400](#) (Calatayud)

LINKED BILLS: None

RELATED BILLS: None

FINAL HOUSE FLOOR ACTION: 116 Y's 0 N's

GOVERNOR'S ACTION: Pending

SUMMARY

Effect of the Bill:

The bill revises provisions of Florida's deepfake law to require covered platforms, such as websites and online services, to remove altered sexual depictions and copies of such depictions from their platform upon request of the victim. The bill requires such platforms to establish a process for persons to notify them of deepfake depictions and request their removal. The bill requires the platforms to remove such content within 48 hours of receiving a request, provides liability protections for platforms that act in good faith, establishes penalties for failure to comply, and makes such failures a violation of the Florida Deceptive and Unfair Trade Practices Act. The bill provides an exception for certain information or telecommunications services and certain online services that do not primarily consist of user-generated content.

The effective date of the bill is, except as otherwise provided, upon becoming law.

Fiscal or Economic Impact:

The bill may have an indeterminate economic impact on the private sector.

[JUMP TO](#)

[SUMMARY](#)

[ANALYSIS](#)

[RELEVANT INFORMATION](#)

ANALYSIS

EFFECT OF THE BILL:

Notice and Removal Process

The bill revises provisions of Florida's [deepfake law](#), as follows:

- Names the act, "Brooke's Law." (Section [1](#))
- Requires, no later than December 31, 2025, [covered platforms](#) to establish a process by which an identifiable person or an authorized person acting on behalf of the identifiable person may notify and request removal of an [altered sexual depiction](#) that was published without their consent.
- Requires the notification and request for removal to include:
 - A physical or electronic signature of the identifiable person or an authorized person acting on their behalf.
 - An identification of, and information reasonably sufficient for the covered platform to locate, the altered sexual depiction of the identifiable person.
 - A brief statement that the identifiable person has a good faith belief that any altered sexual depiction identified is not consensual, including any relevant information for the covered platform to determine the depiction was published without consent.
 - Information sufficient to enable the covered platform to contact the identifiable person or authorized person. (Section [2](#))

Clear and Conspicuous Notice

The bill requires a covered platform to provide clear and conspicuous notice of the notice and removal process, which:

- Is easy to read and in plain language.

STORAGE NAME: h1161z

DATE: 4/25/2025

- Provides information regarding the responsibilities of the covered platform under the bill.
- Includes a description of how a person can submit a notification and request for removal. (Section [2](#))

The bill requires, upon receipt of a valid removal request, as soon as possible but no later than 48 hours, the covered platform to remove the altered sexual depiction and make reasonable efforts to identify and remove any known, identical copies of such depiction. (Section [2](#))

The bill exempts:

- Providers of information services or telecommunications services, as those terms are defined in 47 U.S.C. s. 153, for content provided by another person.
- Electronic mail.
- Except as otherwise provided, an online service, application, or website:
 - That consists primarily of preselected content by the provider, rather than content that is user generated; and
 - For which any chat, comment, or interactive functionality is incidental to, directly related to, or dependent on the provision of the content described above. (Section [2](#))

The bill defines “[covered platform](#)” as a website, online service, online application, or mobile application that serves the public and:

- Primarily provides a forum for user-generated content, including messages, videos, images, games, and audio files; or
- For which it is in the regular course of trade or business of the website, online service, online application, or mobile application to publish, curate, host, or make available content of nonconsensual altered sexual depictions. (Section [2](#))

Liability

The bill provides that a covered platform is not liable for any claim based on the platform’s good faith removal of material claimed to be a nonconsensual altered sexual depiction, regardless of whether the altered sexual depiction is ultimately found to be unlawful. (Section [2](#))

Remedies

In addition to the remedies provided in [s. 836.13\(5\), F.S.](#), which authorize a person who is portrayed in an altered sexual depiction without his or her consent to initiate a civil cause of action against a person who willfully and maliciously promoted such depiction, a failure to comply with the notice and removal requirements of the bill constitutes an unfair or deceptive act or practice under the [Florida Deceptive and Unfair Trade Practices Act](#). (Section [2](#))

Severability

Provides that if any provision of the law is held invalid, then that provision or its application is severable and does not affect the validity of the other provisions or applications of the law. (Section [2](#))

Effective Date

Subject to the Governor’s veto powers, the effective date of the bill is upon becoming law. (Section [3](#))

FISCAL OR ECONOMIC IMPACT:

PRIVATE SECTOR:

Indeterminate. The bill provides notification and removal requirements, and civil penalties for noncompliance, for businesses considered a covered platform. The cost of compliance and number of violations for noncompliance is unknown.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Nonconsensual Altered Sexual Depictions

Over the last decade, Americans have started to recognize the growing problem of distribution of sexually explicit images without consent, otherwise known as “revenge porn.”¹ Although Florida and other states have enacted protections against revenge porn, there are still instances in which a person may be a victim of nonconsensual pornography in the form of altered sexual depictions, more commonly known as “deepfakes.”² Deepfakes typically take the form of imagery, video, and audio material that “is produced or distributed without the consent of the subject and has been altered, potentially with artificial intelligence, to show nonconsensual intimate or explicit content.”³ Advancements in technology, such as increased availability and usage of generative AI, have enabled perpetrators to manipulate sexual materials in ways that circumvent revenge porn laws. For example, “if a photo depicted the victim nude, where the victim’s face was real, but the victim’s genitals were computer generated, many laws would not apply because the intimate part of the image was not the victim’s.”⁴

Researchers have discovered that 98% of the deepfake videos found online are explicitly pornographic and 99% of deepfake pornography features women.⁵ Moreover, the creation of deepfake pornography is rapidly increasing, as researchers found that there were 464% more deepfake pornographic videos created in 2023 than in 2022.⁶ Further, 90% of deepfake pornography is found on dedicated deepfake pornography platforms.⁷ In response to the prevalence of deepfakes, the Department of Homeland Security has declared that “[d]eepfakes and the misuse of synthetic content pose a clear, present, and evolving threat to the public across national security, law enforcement, financial, and societal domains.”⁸

Florida Deepfake Law

In 2022, the Florida Legislature created [s. 836.13, F.S.](#), to address deepfake images by providing a third degree felony for the willful and malicious promotion of any altered sexual depiction of an identifiable person, without the consent of the identifiable person, and if the person knew or reasonably should have known that such visual depiction was an altered sexual depiction.⁹

“Altered sexual depiction” means any visual depiction¹⁰ 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:¹¹

¹ “In 2016, 10 million people, or 2% of Americans had reported being victims of nonconsensual porn. Individuals ages 18-29 generally, and women aged 18-29 specifically, as well as LGBTQ+ Americans were victimized at even higher rates. In 2017, the number of young Americans ages 18-29 who had become victims of nonconsensual porn jumped to 12%, an increase of over 100%. In 2019, a larger study suggests that the problem has only grown, showing a 400% increase in the number of victims from 2016. Taken as a whole, these statistics show the number of victims continues to rise at an alarming rate even though both the legal system and society as a whole have attempted to address the issue.” Chance Carter, NAT’L ASS’N OF ATT’Y GEN., *An Update on the Legal Landscape of Revenge Porn*, https://www.naag.org/attorney-general-journal/an-update-on-the-legal-landscape-of-revenge-porn/#identifier_4_21493 (last visited Mar. 21, 2025).

² RAINN, *RAINN’s Recommendation for Effectively Addressing Nonconsensual Manipulated Intimate Material (Deepfakes)*, <https://www.rainn.org/sites/default/files/import/RAINN%20on%20nonconsensual%20manipulated%20intimate%20material%20-%20Google%20Docs.pdf#:~:text=We%20refer%20to%20imagery%2C%20video%2C%20audio%2C%20etc.%20that,or%20explicit%20content%20as%20%E2%80%9Cnonconsensual%20manipulated%20intimate%20material%E2%80%9D> (last visited Mar. 21, 2025).; see also DEPT. OF HOMELAND SEC., *Increasing Threat of Deepfake Identities*, [cations/increasing_threats_of_deepfake_identities_0.pdf](https://www.dhs.gov/sites/default/files/publications/increasing_threats_of_deepfake_identities_0.pdf) (last visited Mar. 21, 2025).

³ *Id.*

⁴ RAINN, *supra* note 2.

⁵ Security Hero, *2023 State of Deepfakes*, <https://www.securityhero.io/state-of-deepfakes/#concluding-remarks> (last visited Mar. 21, 2025).

⁶ *Id.*

⁷ *Id.*

⁸ DEPT. OF HOMELAND SEC., *supra* note 2.

⁹ See s. [836.13, F.S.](#)

¹⁰ “Visual depiction” includes, but is not limited to, a photograph, picture, image, motion picture, film, video, or other visual representation. S. [836.13\(1\)\(e\), F.S.](#)

¹¹ “Identifiable person” means a person who is recognizable as an actual person by the person’s face, likeness, or other distinguishing characteristic, such as a unique birthmark, or other recognizable feature. S. [836.13\(1\)\(b\), F.S.](#)

- With the nude body parts¹² 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 conduct¹³ in which the identifiable person did not engage.¹⁴

The presence of a disclaimer within an altered sexual depiction which notifies a viewer that the person or persons depicted did not consent to or participate in the creation or promotion of the material, or that the person or persons depicted did not actually perform the actions portrayed, is not a defense and does not relieve a person of criminal liability for promoting an altered sexual depiction.¹⁵

The law authorizes the following civil remedies for victims:

- Injunctive relief;
- Monetary damages of \$10,000 or actual damages; and
- Reasonable attorney's fees and costs.¹⁶

While this statute may be used by victims to obtain justice from violations regarding deepfake pornography, the statute does not currently provide for the removal of such content from online platforms.

Florida Deceptive and Unfair Trade Practices Act

The Florida Deceptive and Unfair Trade Practices Act (FDUTPA) is a consumer and business protection measure that prohibits unfair methods of competition, and unconscionable, deceptive, or unfair acts or practices in the conduct of trade or commerce.¹⁷ FDUTPA was modeled after the FTC Act.¹⁸

The Department of Legal Affairs (DLA) or state attorney's office (SAO) in the judicial circuit affected or where the violation occurs may bring actions on behalf of consumers or governmental entities when it serves the public interest.¹⁹ The SAO may enforce violations of FDUTPA if the violations take place within its jurisdiction. The DLA has enforcement authority when the violation is multi-jurisdictional, the state attorney defers to the DLA in writing, or the state attorney fails to act within 90 days after a written complaint is filed.²⁰ In certain circumstances, consumers may also file suit through private actions.²¹

The DLA and the SAO have powers to investigate FDUTPA claims, which include:²²

- Administering oaths and affirmations;
- Subpoenaing witnesses or matter; and
- Collecting evidence.

The DLA and SAO may seek the following remedies:

- Declaratory judgments;
- Injunctive relief;

¹² "Nude body parts" means the human male or female genitals, pubic area, or buttocks with less than fully opaque covering; or the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple; or the depiction of covered male genitals in a discernibly turgid state. The term does not under any circumstances include a mother breastfeeding her baby. S. [836.13\(1\)\(c\), F.S.](#)

¹³ S. [847.001\(19\), F.S.](#)

¹⁴ S. [836.13\(1\)\(a\), F.S.](#)

¹⁵ S. [836.13\(4\), F.S.](#)

¹⁶ S. [836.13\(5\), F.S.](#)

¹⁷ S. [501.201, F.S.](#)

¹⁸ D. Matthew Allen, et. al., *The Federal Character of Florida's Deceptive and Unfair Trade Practices Act*, 65 U. MIAMI L. REV. 1083 (Summer 2011).

¹⁹ Ss. [501.203\(2\)](#) and s. [501.207\(1\)\(c\) and \(2\), F.S.](#); see also David J. Federbush, *FDUTPA for Civil Antitrust: Additional Conduct, Party, and Geographic Coverage*; *State Actions for Consumer Restitution*, 76 FLORIDA BAR JOURNAL 52, Dec. 2002 (analyzing the merits of FDUTPA and the potential for deterrence of anticompetitive conduct in Florida), available at http://www.floridabar.org/divcom/jn/jnjournal01.nsf/c0d731e03de9828d852574580042ae7a/99aa165b7d8ac8a485256c8300791ec1!Opendocument&Highlight=0,business,Division* (last visited on Mar. 21, 2025).

²⁰ S. [501.203\(2\), F.S.](#)

²¹ S. [501.211, F.S.](#)

²² S. [501.206\(1\), F.S.](#)

- Actual damages on behalf of consumers and businesses;
- Cease and desist orders; and
- Civil penalties of up to \$10,000 per willful violation.²³

FDUTPA may not be applied to certain entities in certain circumstances, including:²⁴

- Any person or activity regulated under laws administered by the Office of Insurance Regulation or the Department of Financial Services; or
- Banks, credit unions, and savings and loan associations regulated by the Office of Financial Regulation or federal agencies.

RECENT LEGISLATION:

YEAR	BILL #	HOUSE SPONSOR(S)	SENATE SPONSOR	OTHER INFORMATION
2022	CS/CS/SB 1798	Harding	Book	The bill became law on October 1, 2022.

OTHER RESOURCES:

[Thomson Reuters, Deepfakes: Federal and state regulation aims to curb a growing threat.](#)

²³ Ss. [501.207\(1\)](#), [501.208](#), and [501.2075, F.S.](#) Civil Penalties are deposited into general revenue. Enforcing authorities may also request attorney fees and costs of investigation or litigation. S. [501.2105, F.S.](#)

²⁴ S. [501.212\(4\), F.S.](#)