

A New Opportunity For Child Predators & Pedophiles: Generative AI

The headlines speak for themselves. “The AI-Generated Child Abuse Nightmare Is Here.” “Predators Exploit AI Tools to Generate Images of Child Abuse.” There is no question that AI has promise and potential, but it also puts an unimaginably powerful weapon in the hands of some of the worst people on the Internet: child predators and pedophiles, and we must not allow that to happen.

This is not the first time tech companies' conduct and design decisions have put our kids at risk, and Congress is considering legislation to fix the legal gaps and hold tech companies accountable. And on January 31, the Senate Judiciary Committee will have yet another hearing with the CEOs of Snap, X, Discord, Meta, and TikTok on their willful disregard for the safety and well-being of our children.

But today, we, as child safety advocates, are organized and ready to address this new threat – and thankfully, Congress sees the urgent need to act. Bipartisan proposals from Representatives Salazar and Dean and Senators Coons and Blackburn are already in motion to provide new tools against abusive child sexual exploitation abuse material (CSAM) deepfakes and other invasive and harmful unconsented voice clones and digital replicas. We urge Congress to immediately pass these critical protections into law and create the necessary guardrails to keep our children safe.

Although these bills originate in efforts by artists and creative performers to deal with the rising problem of AI-powered lookalike and soundalike voice clones and digital replicas that exploit their sound, image, and brand without consent, these bills can also be used to protect children against the use of AI deepfakes and abuse of a child's name, image, and likeness and provide legal remedies against such use. Hollywood actors have a new SAG-AFTRA contract with AI protections and Rights of Publicity laws in certain states, but children have no such protections. We cannot just provide legal protection for the rich and famous while leaving our children behind.

The government is also sounding the alarm about the wrongful use of these AI tools, including the FTC, which recently warned against phony celebrity endorsements and highly realistic dating and romance scams. And a recent investigative report into an AI-powered website called AnyDream revealed AI technology was used to create nude images of celebrities as well as less prominent people known to the site's users and, in at least one case, a sitting Congresswoman.

But as is often the case, the most vulnerable victims of new technologies will undoubtedly be our children, who have again been left out of any AI discussion on Capitol Hill in the Administration or any international forum around AI harm.

We have already seen cases in the US and Spain where AI technology was misused to harass young girls by generating nude photos from their publicly clothed images. AI technology is also being used to manipulate existing CSAM into “new” images to satisfy users’ demand for fresh material, revictimizing children who have previously been abused. Experts warn, “A horrific new era of ultrarealistic, AI-generated, child sexual abuse images is now underway.”

The legislation proposed by Reps. Salazar and Dean and Sens. Coons and Blackburn, as well as a number of their colleagues and cosponsors, would empower victims and their representatives to fight back – making clear that every person, including children, have a personal property right in their image, voice, and likeness. The legislation creates new legal tools to stop the wrongful misappropriation and misuse of those core elements of personal identity. It would provide a powerful tool and create substantial new costs and legal risks for AI CSAM mills, causing many to shut down while giving victims a path to recover compensation that could be used for treatment and recovery and to fund the long-term fight against these abusive crimes.

As the House and Senate work to complete these and other bills around AI, child safety advocates are working to create a new international coalition focusing on the harms of AI and urging policymakers around the world to take to heart lessons learned during the long and unfinished struggle to require social media platforms to take responsibility for the conduct and design decisions of their platforms.

First, legislation must create a remedy against the developers and AI models that enable this new generation of CSAM and harm to children. A law that allows action only against the predators and pedophiles who use these tools provides some justice but will ultimately fail to deliver meaningful protection for our kids. These harms occur at scale; the only way to stop them is at the source.

Second, lawmakers should resist watering down new remedies and protections based on bad-faith arguments about supposed risks to free expression. No one disputes the vital importance of First Amendment protections – but CSAM is not protected speech, and the right place to sort those out is in individual court cases, not through vague “exceptions” that risk draining this critical new law of vitality and force.

For example, arguments that the First Amendment requires a wholesale exemption for “expressive works,” if correct, would mean that no matter how abusive and exploitative the AI creation if AI-generated CSAM is in the form of a film, book or video game, parents and children would have no right to protect the child’s likeness or voice. Fortunately, that is not the case, and the courts have

long weighed an individual's rights against any purported First Amendment claims on a case-by-case basis.

Third, Congress must ensure that the definition of CSAM includes images generated by the use of names, images, and likenesses of real children to satisfy the Supreme Court's concerns that led to the striking down of the Child Pornography Prevention Act of 1996 (CPPA).

Fourth, Congress must move fast. Predators and pedophiles who would manipulate generative AI to invent new forms of CSAM that harm children are not waiting around, and victims should not be forced to either. As stated in the letter to Congress from 54 State Attorneys General on September 5, 2023, "While we know Congress is aware of concerns surrounding AI, and legislation has been recently proposed at both the state and federal level to regulate AI generally, much of the focus has been on national security and education concerns. And while those interests are worthy of consideration, the safety of children should not fall through the cracks when evaluating the risks of AI."