

AMENDED IN ASSEMBLY JULY 3, 2024

**SENATE BILL**

**No. 933**

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**Introduced by Senators Wahab and Ochoa Bogh**

(Principal coauthor: Assembly Member Berman)

**(Coauthors: Senators Bradford, Cortese, Grove, Jones, Rubio,  
Seyarto, and Skinner)**

(Coauthors: Assembly Members Dixon, Stephanie Nguyen, and Schiavo)

January 16, 2024

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An act to amend Sections 311, 311.1, 311.2, 311.3, 311.4, 311.11, and 312.3 ~~of~~ *of*, and to add Section 13012.9 to, the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

SB 933, as amended, Wahab. Crimes: child pornography.

Existing law makes it a crime to, among other things, possess any matter, representation of information, data, or image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disc, data storage media, CD-ROM, or computer-generated equipment or any other computer-generated image that contains or incorporates in any manner, any film or filmstrip, the production of which involves the use of a person under 18 years of age, knowing that the matter depicts a person under 18 years of age personally engaging in or simulating sexual conduct.

This bill would, for the purposes of those provisions, include an image generated through the use of artificial ~~intelligence~~ *intelligence, as defined*, as a computer-generated image. By expanding the scope of a crime, this bill would impose a state-mandated local program.

*Existing law imposes specified duties on the Department of Justice relating to the collection and analysis of criminal statistical data, including, among other things, a requirement to make information relating to criminal justice statistics available to the public through the department's OpenJustice internet portal.*

*This bill would require the Department of Justice to include in its collection and analysis of criminal statistical data violations based on materials generated through the use of artificial intelligence.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 311 of the Penal Code is amended to*  
2     *read:*

3     311. As used in this chapter, the following definitions apply:

4     (a) "Obscene matter" means matter, taken as a whole, that to  
5     the average person, applying contemporary statewide standards,  
6     appeals to the prurient interest, that, taken as a whole, depicts or  
7     describes sexual conduct in a patently offensive way, and that,  
8     taken as a whole, lacks serious literary, artistic, political, or  
9     scientific value.

10    (1) If it appears from the nature of the matter or the  
11    circumstances of its dissemination, distribution, or exhibition that  
12    it is designed for clearly defined deviant sexual groups, the appeal  
13    of the matter shall be judged with reference to its intended recipient  
14    group.

15    (2) In prosecutions under this chapter, if circumstances of  
16    production, presentation, sale, dissemination, distribution, or  
17    publicity indicate that matter is being commercially exploited by  
18    the defendant for the sake of its prurient appeal, this evidence is  
19    probative with respect to the nature of the matter and may justify  
20    the conclusion that the matter lacks serious literary, artistic,  
21    political, or scientific value.

1 (3) In determining whether the matter taken as a whole lacks  
2 serious literary, artistic, political, or scientific value in description  
3 or representation of those matters, the fact that the defendant knew  
4 that the matter depicts persons under the age of 16 years engaged  
5 in sexual conduct, as defined in subdivision (c) of Section 311.4,  
6 is a factor that may be considered in making that determination.

7 (b) “Matter” means any book, magazine, newspaper, or other  
8 printed or written material, or any picture, drawing, photograph,  
9 motion picture, or other pictorial representation, or any statue or  
10 other figure, or any recording, transcription, or mechanical,  
11 chemical, or electrical reproduction, or any other article, equipment,  
12 machine, or material. “Matter” also means live or recorded  
13 telephone messages if transmitted, disseminated, or distributed as  
14 part of a commercial transaction.

15 (c) “Person” means any individual, partnership, firm,  
16 association, corporation, limited liability company, or other legal  
17 entity.

18 (d) “Distribute” means transfer possession of, whether with or  
19 without consideration.

20 (e) “Knowingly” means being aware of the character of the  
21 matter or live conduct.

22 (f) “Exhibit” means show.

23 (g) “Obscene live conduct” means any physical human body  
24 activity, whether performed or engaged in alone or with other  
25 persons, including but not limited to singing, speaking, dancing,  
26 acting, simulating, or pantomiming, taken as a whole, that to the  
27 average person, applying contemporary statewide standards,  
28 appeals to the prurient interest and is conduct that, taken as a whole,  
29 depicts or describes sexual conduct in a patently offensive way  
30 and that, taken as a whole, lacks serious literary, artistic, political,  
31 or scientific value.

32 (1) If it appears from the nature of the conduct or the  
33 circumstances of its production, presentation, or exhibition that it  
34 is designed for clearly defined deviant sexual groups, the appeal  
35 of the conduct shall be judged with reference to its intended  
36 recipient group.

37 (2) In prosecutions under this chapter, if circumstances of  
38 production, presentation, advertising, or exhibition indicate that  
39 live conduct is being commercially exploited by the defendant for  
40 the sake of its prurient appeal, that evidence is probative with

1 respect to the nature of the conduct and may justify the conclusion  
2 that the conduct lacks serious literary, artistic, political, or scientific  
3 value.

4 (3) In determining whether the live conduct taken as a whole  
5 lacks serious literary, artistic, political, or scientific value in  
6 description or representation of those matters, the fact that the  
7 defendant knew that the live conduct depicts persons under the  
8 age of 16 years engaged in sexual conduct, as defined in  
9 subdivision (c) of Section 311.4, is a factor that may be considered  
10 in making that determination.

11 (h) *“Artificial intelligence” means an engineered or*  
12 *machine-based system that varies in its level of autonomy and that*  
13 *can, for explicit or implicit objectives, infer from the input it*  
14 *receives how to generate outputs that can influence physical or*  
15 *virtual environments.*

16 ~~(h)~~

17 (i) The Legislature expresses its approval of the holding of  
18 *People v. Cantrell*, 7 Cal. App. 4th 523, that, for the purposes of  
19 this chapter, matter that “depicts a person under the age of 18 years  
20 personally engaging in or personally simulating sexual conduct”  
21 is limited to visual works that depict that conduct.

22 **SECTION 1.**

23 **SEC. 2.** Section 311.1 of the Penal Code is amended to read:

24 311.1. (a) Every person who knowingly sends or causes to be  
25 sent, or brings or causes to be brought, into this state for sale or  
26 distribution, or in this state possesses, prepares, publishes,  
27 produces, develops, duplicates, or prints any representation of  
28 information, data, or image, including, but not limited to, any film,  
29 filmstrip, photograph, negative, slide, photocopy, videotape, video  
30 laser disc, computer hardware, computer software, computer floppy  
31 disc, data storage media, CD-ROM, or computer-generated  
32 equipment or any other computer-generated image, including an  
33 image generated through the use of artificial intelligence, that  
34 contains or incorporates in any manner, any film or filmstrip, with  
35 intent to distribute or to exhibit to, or to exchange with, others, or  
36 who offers to distribute, distributes, or exhibits to, or exchanges  
37 with, others, any obscene matter, knowing that the matter depicts  
38 a person under the age of 18 years personally engaging in or  
39 personally simulating sexual conduct, as defined in Section 311.4,  
40 shall be punished either by imprisonment in the county jail for up

1 to one year, by a fine not to exceed one thousand dollars (\$1,000),  
2 or by both the fine and imprisonment, or by imprisonment in the  
3 state prison, by a fine not to exceed ten thousand dollars (\$10,000),  
4 or by the fine and imprisonment.

5 (b) This section does not apply to the activities of law  
6 enforcement and prosecuting agencies in the investigation and  
7 prosecution of criminal offenses or to legitimate medical, scientific,  
8 or educational activities, or to lawful conduct between spouses.

9 (c) This section does not apply to matter which depicts a child  
10 under the age of 18, which child is legally emancipated, including  
11 lawful conduct between spouses when one or both are under the  
12 age of 18.

13 (d) It does not constitute a violation of this section for a  
14 telephone corporation, as defined by Section 234 of the Public  
15 Utilities Code, to carry or transmit messages described in this  
16 chapter or perform related activities in providing telephone  
17 services.

18 ~~SEC. 2.~~

19 *SEC. 3.* Section 311.2 of the Penal Code is amended to read:

20 311.2. (a) Every person who knowingly sends or causes to be  
21 sent, or brings or causes to be brought, into this state for sale or  
22 distribution, or in this state possesses, prepares, publishes,  
23 produces, or prints, with intent to distribute or to exhibit to others,  
24 or who offers to distribute, distributes, or exhibits to others, any  
25 obscene matter is for a first offense, guilty of a misdemeanor. If  
26 the person has previously been convicted of any violation of this  
27 section, the court may, in addition to the punishment authorized  
28 in Section 311.9, impose a fine not exceeding fifty thousand dollars  
29 (\$50,000).

30 (b) Every person who knowingly sends or causes to be sent, or  
31 brings or causes to be brought, into this state for sale or distribution,  
32 or in this state possesses, prepares, publishes, produces, develops,  
33 duplicates, or prints any representation of information, data, or  
34 image, including, but not limited to, any film, filmstrip, photograph,  
35 negative, slide, photocopy, videotape, video laser disc, computer  
36 hardware, computer software, computer floppy disc, data storage  
37 media, CD-ROM, or computer-generated equipment or any other  
38 computer-generated image, including an image generated through  
39 the use of artificial intelligence, that contains or incorporates in  
40 any manner, any film or filmstrip, with intent to distribute or to

1 exhibit to, or to exchange with, others for commercial  
2 consideration, or who offers to distribute, distributes, or exhibits  
3 to, or exchanges with, others for commercial consideration, any  
4 obscene matter, knowing that the matter depicts a person under  
5 the age of 18 years personally engaging in or personally simulating  
6 sexual conduct, as defined in Section 311.4, is guilty of a felony  
7 and shall be punished by imprisonment in the state prison for two,  
8 three, or six years, or by a fine not exceeding one hundred thousand  
9 dollars (\$100,000), in the absence of a finding that the defendant  
10 would be incapable of paying that fine, or by both that fine and  
11 imprisonment.

12 (c) Every person who knowingly sends or causes to be sent, or  
13 brings or causes to be brought, into this state for sale or distribution,  
14 or in this state possesses, prepares, publishes, produces, develops,  
15 duplicates, or prints any representation of information, data, or  
16 image, including, but not limited to, any film, filmstrip, photograph,  
17 negative, slide, photocopy, videotape, video laser disc, computer  
18 hardware, computer software, computer floppy disc, data storage  
19 media, CD-ROM, or computer-generated equipment or any other  
20 computer-generated image, including an image generated through  
21 the use of artificial intelligence, that contains or incorporates in  
22 any manner, any film or filmstrip, with intent to distribute or  
23 exhibit to, or to exchange with, a person 18 years of age or older,  
24 or who offers to distribute, distributes, or exhibits to, or exchanges  
25 with, a person 18 years of age or older any matter, knowing that  
26 the matter depicts a person under the age of 18 years personally  
27 engaging in or personally simulating sexual conduct, as defined  
28 in Section 311.4, shall be punished by imprisonment in the county  
29 jail for up to one year, or by a fine not exceeding two thousand  
30 dollars (\$2,000), or by both that fine and imprisonment, or by  
31 imprisonment in the state prison. It is not necessary to prove  
32 commercial consideration or that the matter is obscene in order to  
33 establish a violation of this subdivision. If a person has been  
34 previously convicted of a violation of this subdivision, they are  
35 guilty of a felony.

36 (d) Every person who knowingly sends or causes to be sent, or  
37 brings or causes to be brought, into this state for sale or distribution,  
38 or in this state possesses, prepares, publishes, produces, develops,  
39 duplicates, or prints any representation of information, data, or  
40 image, including, but not limited to, any film, filmstrip, photograph,

negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disc, data storage media, CD-ROM, or computer-generated equipment or any other computer-generated image, including an image generated through the use of artificial intelligence, that contains or incorporates in any manner, any film or filmstrip, with intent to distribute or exhibit to, or to exchange with, a person under 18 years of age, or who offers to distribute, distributes, or exhibits to, or exchanges with, a person under 18 years of age any matter, knowing that the matter depicts a person under the age of 18 years personally engaging in or personally simulating sexual conduct, as defined in Section 311.4, is guilty of a felony. It is not necessary to prove commercial consideration or that the matter is obscene in order to establish a violation of this subdivision.

(e) Subdivisions (a) to (d), inclusive, do not apply to the activities of law enforcement and prosecuting agencies in the investigation and prosecution of criminal offenses, to legitimate medical, scientific, or educational activities, or to lawful conduct between spouses.

(f) This section does not apply to matter that depicts a legally emancipated child under the age of 18 years or to lawful conduct between spouses when one or both are under the age of 18 years.

(g) It does not constitute a violation of this section for a telephone corporation, as defined by Section 234 of the Public Utilities Code, to carry or transmit messages described in this chapter or to perform related activities in providing telephone services.

~~SEC. 3.~~

*SEC. 4.* Section 311.3 of the Penal Code is amended to read:

311.3. (a) A person is guilty of sexual exploitation of a child if the person knowingly develops, duplicates, prints, or exchanges any representation of information, data, or image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disc, data storage media, CD-ROM, or computer-generated equipment or any other computer-generated image, including an image generated through the use of artificial intelligence, that contains or incorporates in any manner, any film or filmstrip that depicts a person under the age of 18 years engaged in an act of sexual conduct.

(b) As used in this section, “sexual conduct” means any of the following:

(1) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between humans and animals.

(2) Penetration of the vagina or rectum by any object.

(3) Masturbation for the purpose of sexual stimulation of the viewer.

(4) Sadomasochistic abuse for the purpose of sexual stimulation of the viewer.

(5) Exhibition of the genitals or the pubic or rectal area of any person for the purpose of sexual stimulation of the viewer.

(6) Defecation or urination for the purpose of sexual stimulation of the viewer.

(c) Subdivision (a) does not apply to the activities of law enforcement and prosecution agencies in the investigation and prosecution of criminal offenses or to legitimate medical, scientific, or educational activities, or to lawful conduct between spouses.

(d) Every person who violates subdivision (a) shall be punished by a fine of not more than two thousand dollars (\$2,000) or by imprisonment in a county jail for not more than one year, or by both that fine and imprisonment. If the person has been previously convicted of a violation of subdivision (a) or any section of this chapter, they shall be punished by imprisonment in the state prison.

(e) The provisions of this section do not apply to an employee of a commercial film developer who is acting within the scope of their employment and in accordance with the instructions of their employer, provided that the employee has no financial interest in the commercial developer by which they are employed.

(f) Subdivision (a) does not apply to matter that is unsolicited and is received without knowledge or consent through a facility, system, or network over which the person or entity has no control.

~~SEC. 4.~~

SEC. 5. Section 311.4 of the Penal Code is amended to read:

311.4. (a) Every person who, with knowledge that a person is a minor, or who, while in possession of any facts on the basis of which they should reasonably know that the person is a minor, hires, employs, or uses the minor to do or assist in doing any of the acts described in Section 311.2, shall be punished by imprisonment in the county jail for up to one year, or by a fine not



1 exceeding two thousand dollars (\$2,000), or by both that fine and  
2 imprisonment, or by imprisonment in the state prison. If the person  
3 has previously been convicted of any violation of this section, the  
4 court may, in addition to the punishment authorized in Section  
5 311.9, impose a fine not exceeding fifty thousand dollars (\$50,000).

6 (b) Every person who, with knowledge that a person is a minor  
7 under the age of 18 years, or who, while in possession of any facts  
8 on the basis of which they should reasonably know that the person  
9 is a minor under the age of 18 years, knowingly promotes, employs,  
10 uses, persuades, induces, or coerces a minor under the age of 18  
11 years, or any parent or guardian of a minor under the age of 18  
12 years under their control who knowingly permits the minor, to  
13 engage in or assist others to engage in either posing or modeling  
14 alone or with others for purposes of preparing any representation  
15 of information, data, or image, including, but not limited to, any  
16 film, filmstrip, photograph, negative, slide, photocopy, videotape,  
17 video laser disc, computer hardware, computer software, computer  
18 floppy disc, data storage media, CD-ROM, or computer-generated  
19 equipment or any other computer-generated image, including an  
20 image generated through the use of artificial intelligence, that  
21 contains or incorporates in any manner, any film, filmstrip, or a  
22 live performance involving, sexual conduct by a minor under the  
23 age of 18 years alone or with other persons or animals, for  
24 commercial purposes, is guilty of a felony and shall be punished  
25 by imprisonment in the state prison for three, six, or eight years.

26 (c) Every person who, with knowledge that a person is a minor  
27 under the age of 18 years, or who, while in possession of any facts  
28 on the basis of which they should reasonably know that the person  
29 is a minor under the age of 18 years, knowingly promotes, employs,  
30 uses, persuades, induces, or coerces a minor under the age of 18  
31 years, or any parent or guardian of a minor under the age of 18  
32 years under their control who knowingly permits the minor, to  
33 engage in or assist others to engage in either posing or modeling  
34 alone or with others for purposes of preparing any representation  
35 of information, data, or image, including, but not limited to, any  
36 film, filmstrip, photograph, negative, slide, photocopy, videotape,  
37 video laser disc, computer hardware, computer software, computer  
38 floppy disc, data storage media, CD-ROM, or computer-generated  
39 equipment or any other computer-generated image, including an  
40 image generated through the use of artificial intelligence, that

1 contains or incorporates in any manner, any film, filmstrip, or a  
2 live performance involving, sexual conduct by a minor under the  
3 age of 18 years alone or with other persons or animals, is guilty  
4 of a felony. It is not necessary to prove commercial purposes in  
5 order to establish a violation of this subdivision.

6 (d) (1) As used in subdivisions (b) and (c), “sexual conduct”  
7 means any of the following, whether actual or simulated: sexual  
8 intercourse, oral copulation, anal intercourse, anal oral copulation,  
9 masturbation, bestiality, sexual sadism, sexual masochism,  
10 penetration of the vagina or rectum by any object in a lewd or  
11 lascivious manner, exhibition of the genitals or pubic or rectal area  
12 for the purpose of sexual stimulation of the viewer, any lewd or  
13 lascivious sexual act as defined in Section 288, or excretory  
14 functions performed in a lewd or lascivious manner, whether or  
15 not any of the above conduct is performed alone or between  
16 members of the same or opposite sex or between humans and  
17 animals. An act is simulated when it gives the appearance of being  
18 sexual conduct.

19 (2) As used in subdivisions (b) and (c), “matter” means any  
20 film, filmstrip, photograph, negative, slide, photocopy, videotape,  
21 video laser disc, computer hardware, computer software, computer  
22 floppy disc, or any other computer-related equipment or  
23 computer-generated image, including an image generated through  
24 the use of artificial intelligence, that contains or incorporates in  
25 any manner, any film, filmstrip, photograph, negative, slide,  
26 photocopy, videotape, or video laser disc.

27 (e) This section does not apply to a legally emancipated minor  
28 or to lawful conduct between spouses if one or both are under the  
29 age of 18.

30 (f) In every prosecution under this section involving a minor  
31 under the age of 14 years at the time of the offense, the age of the  
32 victim shall be pled and proven for the purpose of the enhanced  
33 penalty provided in Section 647.6. Failure to plead and prove that  
34 the victim was under the age of 14 years at the time of the offense  
35 is not a bar to prosecution under this section if it is proven that the  
36 victim was under the age of 18 years at the time of the offense.

37 ~~SEC. 5.~~

38 *SEC. 6.* Section 311.11 of the Penal Code is amended to read:

39 311.11. (a) Every person who knowingly possesses or controls  
40 any matter, representation of information, data, or image, including,

1 but not limited to, any film, filmstrip, photograph, negative, slide,  
2 photocopy, videotape, video laser disc, computer hardware,  
3 computer software, computer floppy disc, data storage media,  
4 CD-ROM, or computer-generated equipment or any other  
5 computer-generated image, including an image generated through  
6 the use of artificial intelligence, that contains or incorporates in  
7 any manner, any film or filmstrip, the production of which involves  
8 the use of a person under 18 years of age, knowing that the matter  
9 depicts a person under 18 years of age personally engaging in or  
10 simulating sexual conduct, as defined in subdivision (d) of Section  
11 311.4, is guilty of a felony and shall be punished by imprisonment  
12 in the state prison, or a county jail for up to one year, or by a fine  
13 not exceeding two thousand five hundred dollars (\$2,500), or by  
14 both the fine and imprisonment.

15 (b) Every person who commits a violation of subdivision (a),  
16 and who has been previously convicted of a violation of this  
17 section, an offense requiring registration under the Sex Offender  
18 Registration Act, or an attempt to commit any of the  
19 above-mentioned offenses, is guilty of a felony and shall be  
20 punished by imprisonment in the state prison for two, four, or six  
21 years.

22 (c) Each person who commits a violation of subdivision (a)  
23 shall be punished by imprisonment in the state prison for 16  
24 months, or two or five years, or shall be punished by imprisonment  
25 in a county jail for up to one year, or by a fine not exceeding two  
26 thousand five hundred dollars (\$2,500), or by both the fine and  
27 imprisonment, if one of the following factors exists:

28 (1) The matter contains more than 600 images that violate  
29 subdivision (a), and the matter contains 10 or more images  
30 involving a prepubescent minor or a minor who has not attained  
31 12 years of age.

32 (2) The matter portrays sexual sadism or sexual masochism  
33 involving a person under 18 years of age. For purposes of this  
34 section, “sexual sadism” means the intentional infliction of pain  
35 for purposes of sexual gratification or stimulation. For purposes  
36 of this section, “sexual masochism” means intentionally  
37 experiencing pain for purposes of sexual gratification or  
38 stimulation.

39 (d) It is not necessary to prove that the matter is obscene in order  
40 to establish a violation of this section.

(e) This section does not apply to drawings, figurines, statues, or any film rated by the Motion Picture Association of America, nor does it apply to live or recorded telephone messages when transmitted, disseminated, or distributed as part of a commercial transaction.

(f) For purposes of determining the number of images under paragraph (1) of subdivision (c), the following shall apply:

(1) Each photograph, picture, computer or computer-generated image, or any similar visual depiction shall be considered to be one image.

(2) Each video, video-clip, movie, or similar visual depiction shall be considered to have 50 images.

~~SEC. 6.~~

*SEC. 7.* Section 312.3 of the Penal Code is amended to read:

312.3. (a) Matter that depicts a person under the age of 18 years personally engaging in or personally simulating sexual conduct as defined in Section 311.4 and that is in the possession of any city, county, city and county, or state official or agency is subject to forfeiture pursuant to this section.

(b) An action to forfeit matter described in subdivision (a) may be brought by the Attorney General, the district attorney, county counsel, or the city attorney. Proceedings shall be initiated by a petition of forfeiture filed in the superior court of the county in which the matter is located.

(c) The prosecuting agency shall make service of process of a notice regarding that petition upon every individual who may have a property interest in the alleged proceeds. The notice shall state that any interested party may file a verified claim with the superior court stating the amount of their claimed interest and an affirmation or denial of the prosecuting agency's allegation. If the notice cannot be given by registered mail or personal delivery, the notice shall be published for at least three successive weeks in a newspaper of general circulation in the county where the property is located. All notices shall set forth the time within which a claim of interest in the property seized is required to be filed.

(d) (1) Any person claiming an interest in the property or proceeds may, at any time within 30 days from the date of the first publication of the notice of seizure, or within 30 days after receipt of actual notice, file with the superior court of the county in which the action is pending a verified claim stating their interest in the

1 property or proceeds. A verified copy of the claim shall be given  
2 by the claimant to the Attorney General or district attorney, county  
3 counsel, or city attorney, as appropriate.

4 (2) If, at the end of the time set forth in paragraph (1), an  
5 interested person has not filed a claim, the court, upon motion,  
6 shall declare that the person has defaulted upon their alleged  
7 interest, and it shall be subject to forfeiture upon proof of  
8 compliance with subdivision (c).

9 (e) The burden is on the petitioner to prove beyond a reasonable  
10 doubt that matter is subject to forfeiture pursuant to this section.

11 (f) It is not necessary to seek or obtain a criminal conviction  
12 prior to the entry of an order for the destruction of matter pursuant  
13 to this section. Any matter described in subdivision (a) that is in  
14 the possession of any city, county, city and county, or state official  
15 or agency, including found property, or property obtained as the  
16 result of a case in which no trial was had or that has been disposed  
17 of by way of dismissal or otherwise than by way of conviction  
18 may be ordered destroyed.

19 (g) A court order for destruction of matter described in  
20 subdivision (a) may be carried out by a police or sheriff's  
21 department or by the Department of Justice. The court order shall  
22 specify the agency responsible for the destruction.

23 (h) As used in this section, "matter" means any book, magazine,  
24 newspaper, or other printed or written material or any picture,  
25 drawing, photograph, motion picture, or other pictorial  
26 representation, or any statue or other figure, or any recording,  
27 transcription or mechanical, chemical or electrical reproduction,  
28 or any other articles, equipment, machines, or materials. "Matter"  
29 also means any representation of information, data, or image,  
30 including, but not limited to, any film, filmstrip, photograph,  
31 negative, slide, photocopy, videotape, video laser disc, computer  
32 hardware, computer software, computer floppy disc, data storage  
33 media, CD-ROM, or computer-generated equipment or any other  
34 computer-generated image, including an image generated through  
35 the use of artificial intelligence, that contains or incorporates in  
36 any manner any film or filmstrip.

37 (i) This section does not apply to a depiction of a legally  
38 emancipated minor or to lawful conduct between spouses if one  
39 or both are under the age of 18.

(j) It is a defense in any forfeiture proceeding that the matter seized was lawfully possessed in aid of legitimate scientific or educational purposes.

*SEC. 8. Section 13012.9 is added to the Penal Code, to read:*

*13012.9. (a) The information and reports of the department pursuant to Section 13010 shall include information concerning violations of Chapter 7.5 (commencing with Section 311) of Title 9 of Part 1 that involve materials generated through the use of artificial intelligence.*

*(b) For purposes of this section, “artificial intelligence” means an engineered or machine-based system that varies in its level of autonomy and that can, for explicit or implicit objectives, infer from the input it receives how to generate outputs that can influence physical or virtual environments.*

~~SEC. 7.~~

*SEC. 9.* No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.