



2026 South Dakota Legislature  
**Senate Bill 41**  
**ENROLLED**

AN ACT

**ENTITLED An Act to revise a provision related to criminal invasions of privacy, prohibit the creation and distribution of digitally fabricated material of an identifiable individual, and provide penalties therefor.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

**Section 1. That § 22-21-4 be AMENDED:**

**22-21-4.** No individual, without the consent or knowledge of the individual depicted or recorded, and with the intent to self-gratify or alarm, annoy, embarrass, harass, invade the privacy of, threaten, or cause emotional, financial, physical, psychological, or reputational harm to that individual, may:

- (1) Intentionally use any device to photograph or visually record the individual without clothing or under or through the clothing, or with a third individual depicted in a sexual act, for the purpose of viewing the body of, or the undergarments worn by, the individual;
- (2) Intentionally disclose, disseminate, distribute, sell, or use, by any means, any recording or photograph described in subdivision (1); or
- (3) Knowingly and intentionally create, disclose, disseminate, distribute, or sell, by any means, digitally fabricated material depicting the identifiable individual:
  - (a) In a state of nudity, as defined in § 22-24A-2, such that an ordinary person viewing the material would conclude that the depiction is of the identifiable individual in such a state of nudity; or
  - (b) Engaging in sexual contact, sexual intercourse, deviant sexual activity, or sexually explicit conduct such that an ordinary person viewing the material would conclude that the depiction is of the identifiable individual engaging in sexual contact, sexual intercourse, deviant sexual activity, or sexually explicit conduct.

A violation of subdivision (1) or (2) is a Class 1 misdemeanor, unless the victim is seventeen years of age or younger and the perpetrator is at least twenty-one years of age at the time the photograph or recording is made, in which case the violation is a Class 6 felony. Any subsequent violation of subdivision (1) or (2) is a Class 6 felony. A violation of subdivision (3) is a Class 5 felony.

**Section 2. That a NEW SECTION be added to chapter 22-21:**

Terms used in § 22-21-4 mean:

- (1) "Digitally fabricated material," an image, photograph, video, or other visual depiction that:
  - (a) Appears to an ordinary person to be an authentic depiction of an identifiable individual; and
  - (b) Is adapted, generated, or modified to falsely depict an individual's appearance, conduct, or voice; and
- (2) "Identifiable," recognizable as a specific individual by the individual's face, likeness, or other distinguishing characteristics.

An Act to revise a provision related to criminal invasions of privacy, prohibit the creation and distribution of digitally fabricated material of an identifiable individual, and provide penalties therefor.

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\_\_\_\_\_

I certify that the attached Act originated in the:

Received at this Executive Office this \_\_\_\_ day of \_\_\_\_\_,

Senate as Bill No. 41

2026 at \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of the Senate

By \_\_\_\_\_  
for the Governor

\_\_\_\_\_  
President of the Senate

The attached Act is hereby approved this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2026

Attest:

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Governor

**STATE OF SOUTH DAKOTA,**

ss.

Office of the Secretary of State

\_\_\_\_\_  
Speaker of the House

Filed \_\_\_\_\_, 2026  
at \_\_\_\_\_ o'clock \_\_ M.

Attest:

\_\_\_\_\_  
Chief Clerk of the House

\_\_\_\_\_  
Secretary of State

Senate Bill No. 41  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

By \_\_\_\_\_  
Asst. Secretary of State