



HL Bill 26 of 2024–25

Non-Consensual Sexually Explicit Images and Videos (Offences) Bill [HL]

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Date published: 22 November 2024

The House of Lords is scheduled to debate the [Non-Consensual Sexually Explicit Images and Videos \(Offences\) Bill \[HL\]](#) at second reading on 13 December 2024. The bill is a private member's bill sponsored by Baroness Owen of Alderley Edge (Conservative).

I. Overview

The bill aims to criminalise the creation and solicitation of intimate images of people made without their consent. This includes 'deepfake' images, where technology has been used to put a real person's face into a scenario that has been digitally manipulated. It is currently illegal to share or threaten to share non-consensual intimate images.

A 2023 study by online security advisers Security Hero assessed that of all deepfake videos online, 98% are pornographic and 99% of those are of women.¹ The study demonstrated that an internet user with a clear photo of a person's face could, in less than 25 minutes, create a deepfake 60-second video of that person. Security Hero's analysis showed a 550% rise in deepfake pornographic videos since 2019.

¹ Security Hero, '[2023: State of deepfakes](#)', 2024.





On the purpose of the bill, Baroness Owen said:

The problem of sexually explicit deepfakes is one that is inherently sexist and rapidly proliferating. They have been described as the new frontier of violence against women. The content is created using generative AI and can be made in a matter of seconds with easily downloadable nudification apps or online platforms. Whilst it is illegal to non-consensually share sexually explicit deepfakes online, it is still not illegal to create them in the first place.

The solicitation offence is a key part of the legislation given the borderless nature of the internet and was inspired by my work with a victim-survivor called Jodie.² Making it a crime to solicit the creation of sexually explicit photographs or videos without consent is key to ensuring the legislation is comprehensive and cannot be worked around by requesting the content be made in other jurisdictions where they may not yet have legislated.

Further, the bill endeavours to future proof by amending the current definition of an intimate image in the Sexual Offences Act 2003. The aim of this is to bring into scope the problem of semen images, where a woman's image is posted online then using generative AI semen is added onto the image.

The bill utilises a definition of 'taking' which includes the

² For more on Jodie's experience, read: Baroness Owen of Alderley Edge, '[Why we must end the scourge of deepfake pornography now](#)', Daily Mail, 5 September 2024.



phrase “otherwise capture” to include techniques such as screenshotting.³

2. Detail of the bill

The Non-Consensual Sexually Explicit Images and Videos (Offences) Bill [HL] would amend the [Sexual Offences Act 2003](#).

Clause 1 would make it an offence to take or solicit the taking of an intimate photograph or film of another person, where that person does not consent and the offender does not reasonably believe that the person consents.

The clause defines ‘taking’ an image as either:

- filming, recording or otherwise capturing a photo or video, or
- the digital creation of a photo or video.

Baroness Owen has explained that this definition is intended to “future proof” the legislation against the ways in which taking a photograph may change over time. For example, to bring into scope screenshotting.⁴

Under the Sexual Offences Act 2003, intimate images include those showing nudity, toileting or acts that are sexual in nature. Clause 3

³ This text was provided by Baroness Owen directly to the House of Lords Library. It has been edited for length.

⁴ Text was provided by Baroness Owen directly to the House of Lords Library.



would add to this definition (see below).

The clause sets out that it would be a defence to “prove that the person had a reasonable excuse”. It also states that exemptions would be the same as in section 66C(1) to 66C(5) of the Sexual Offences Act 2003 (which currently relates to sharing or threats to share). The exemptions cover:⁵

- the image being taken in a public place if the intimate state was voluntary and the person in the image had no reasonable expectation of privacy
- the potential offender reasonably believed the image had been previously publicly shared and believed the person in it had consented to the previous sharing
- images of a child under 16 or an adult without capacity to consent in cases where the image is shared for healthcare and treatment reasons
- images of children “of a kind ordinarily shared between family and friends”

If convicted, an offender would be liable to imprisonment for a term not exceeding the maximum term for summary offences (six months) or a fine or both. The court could also require them to delete any copies of the images. This would include physical copies and digital copies held on a device, in cloud storage, or on a messaging platform.

Clause 2 would introduce an offence of making or soliciting a digitally produced sexually explicit photograph or film where the subject does not consent and the offender does not reasonably believe that the person consents.

⁵ [Sexual Offences Act 2003, s 66C.](#)



The clause also sets out that it would be a defence to “prove that the person had a reasonable excuse”, but does not include the exemptions stated in clause 1.

The legal consequences of conviction would be the same as in clause 1.

Clause 3 would amend the current definition of ‘intimate state’ in the Sexual Offences Act 2003 to include “something else depicting the person that a reasonable person would consider to be sexual because of its nature”.

Clause 4 sets out that the bill would apply to England and Wales. It would come into force on the day it received royal assent.

3. Current law

The [Online Safety Act 2023](#) added new offences to the Sexual Offences Act 2003, making it illegal to share or threaten to share intimate images—including deepfakes—of those depicted without their consent.⁶ Threatening behaviour may also contravene harassment or communications law.⁷ If the non-consensual creation of intimate images constituted an aspect of controlling or coercive behaviour in an intimate partner relationship, that can be prosecutable under the [Serious Crime Act 2015](#).

Observing or recording someone doing a ‘private act’ without their

⁶ HM Government, ‘[Criminal Justice Bill: Intimate images](#)’, 23 February 2024.

⁷ Law Commission, ‘[Intimate image abuse: A final report](#)’, 6 July 2022, HC 326 of session 2022–23, p 92.



consent for the purposes of sexual gratification (for the offender or someone else) is an offence under the voyeurism sections of the [Sexual Offences Act 2003](#). It is also an offence to install equipment for that purpose.

The [Police, Crime, Sentencing and Courts Act 2022](#) introduced further voyeurism offences: ‘up-skirting’, taking photos or film under clothing, and taking photos or film of breastfeeding without consent. These offences now form part of the Sexual Offences Act 2003.

Making an indecent image of a child, whether real or digitally altered or created, is an offence under the [Protection of Children Act 1978](#). Internet Matters, an organisation focused on children’s safety online, warned in an October 2024 report that children and teenagers were increasingly encountering, or becoming the subject of, deepfake content.⁸

It is also an offence for a person to make or be in possession of an extreme pornographic image that a person looking at the image would take to be real (whether real or deepfake) under the [Criminal Justice and Immigration Act 2008](#). ‘Extreme’ includes, for example, the portrayal of a non-consensual act or an act which has the potential to cause death, created for the purposes of arousal.

4. Policy background

In July 2022, the Law Commission produced a report on taking,

⁸ Internet Matters, [‘The new face of digital abuse: Children’s experiences of nude deepfakes’](#), 22 October 2024.



making and sharing intimate images without consent.⁹ The Sunak government accepted recommendations from the report, implementing some through changes to the Online Safety Bill, including the creation of the new sharing or threatening to share offence.¹⁰

The then government initially accepted the Law Commission's view that there was insufficient evidence of harm to criminalise deepfake content being made and not shared. The Law Commission report stated:

We acknowledged that making intimate images is a violation of the subject's sexual autonomy. We were less sure whether the level of harm was serious enough to criminalise simple making. [...]

Subjects who were unaware an image had been made of them may suffer less or no harm. This is distinct from being unaware that someone has taken an intimate image; taking violates privacy in a more tangible way, as well as violating sexual autonomy regardless of knowledge. Making can be done from a great distance, between people unknown to each other, and with no interaction at all between them. The person depicted in a made image need not have been in any sort of intimate situation.¹¹

⁹ Law Commission, '[Intimate image abuse: A final report](#)', 6 July 2022, HC 326 of session 2022–23.

¹⁰ House of Commons, '[Written statement: Intimate images abuse offences \(HCWS388\)](#)', 25 November 2022.

¹¹ Law Commission, '[Intimate image abuse: A final report](#)', 6 July 2022, HC 326 of session 2022–23, p 148.



The Law Commission concluded that an offence focused on the making of images would “prove extremely difficult to enforce” and recommended that making images not be criminalised.¹²

The previous government introduced more of the Law Commission’s recommendations in the [Criminal Justice Bill](#), which fell at dissolution 2024.¹³ The bill would have created a new base offence of taking an intimate image without consent, without a requirement of sexual gratification being a motive. It also used the wording ‘intimate photographs or film’ or ‘intimate state’ rather than ‘private act’. The explanatory notes for the bill gave more detail about the intended changes to the law:

The government intends that these sets of provisions will put in place a clearer and more comprehensive legal framework, which would broaden the scope of intimate image offences, so that all instances of intentionally taking or sharing intimate images without consent are criminalised, regardless of motivation. The provision inserted by the Online Safety Act 2023 also sets out a clear definition of a photograph or film which shows, or appears to show, a person in an intimate state (an intimate image) which is broader than the approach in existing offences, thereby extending protections to more victims. The provisions inserted by schedule 2 to this bill adopts that same definition.¹⁴

The then government revised its view on deepfake intimate images

¹² As above, p 156.

¹³ UK Parliament, [‘Criminal Justice Bill’](#), accessed 10 September 2024; and Herbert Smith Freehills, [‘Criminalising deepfakes: The UK’s new offences following the Online Safety Act’](#), 21 May 2024.

¹⁴ [Explanatory notes to the Criminal Justice Bill 2023–24](#), p 13.



during the passage of the Criminal Justice Bill. In April 2024 it announced plans to amend the bill to prohibit the creation of deepfake intimate images.¹⁵ It said:

We are seeing an exponential rise in the use of ‘nudifying’ applications and platforms that allow users to create realistic sexually explicit and nude deepfake images of another person without their knowledge or consent. These images present a real risk to the individual depicted in the image, as once the false image exists there is a risk that it might be seen or shared. Victims report feeling embarrassed, violated and unsafe. [...]

We have now decided to introduce, separate from the intimate images offences, an offence of creating a purported sexual image of an adult, given the growing concern about this behaviour even where the image is never shared.

This new clause would make it an offence to create a purported sexual image of an adult (aged 18 or over), without their consent and for the purpose of sexual gratification, or with intent to cause alarm, distress or humiliation. The offence would be limited to images of adults, because offences already exist in relation to such images of children. The new offence would be a summary-only, non-imprisonable offence with a maximum penalty of an unlimited fine.¹⁶

¹⁵ Ministry of Justice, [‘Government cracks down on ‘deepfakes’ creation’](#), 16 April 2024.

¹⁶ Home Office, [‘Criminal Justice Bill: Letter from ministers Philp and Farris detailing government amendments for Commons report 9 May 2024’](#), 14 May 2024.



Labour was supportive of the move.¹⁷ During committee stage, Labour had tabled its own amendment which would have outlawed the creation of non-consensual deepfake intimate images for the purposes of sexual gratification, or causing alarm, distress or humiliation.¹⁸

Banning the creation of sexually explicit deepfakes was a Labour manifesto commitment.¹⁹ In response to a written question on 24 October 2024, the government said it was “looking at options to deliver this manifesto commitment as effectively as possible”.²⁰ The manifesto also more broadly committed to halve the level of violence against women and girls within a decade.²¹ The manifesto said measures would include tackling the root causes of abuse.

Campaigners have highlighted that some tech firms continue to host content despite it being reported as including a person who did not consent to its creation. On 12 September 2024, the government laid the [Online Safety Act 2023 \(Priority Offences\) \(Amendment\) Regulations 2024](#) under the draft affirmative procedure. The regulations make sharing intimate images without consent a ‘priority offence’, meaning tech firms must take steps to proactively remove content.²² This would enable Ofcom to take action against tech companies that do not remove content, including imposing fines that could reach up to 10% of qualifying worldwide revenue.

¹⁷ Guardian, [‘Creating sexually explicit deepfake images to be made offence in UK’](#), 16 April 2024.

¹⁸ House of Commons Library, [‘Criminal Justice Bill 2023–24: Progress of the bill’](#), 10 May 2024, pp 17–18.

¹⁹ Labour Party, [‘Labour Party manifesto 2024’](#), June 2024, p 35.

²⁰ House of Commons, [‘Written question: Intimate image abuse \(10154\)’](#), 24 October 2024.

²¹ Labour Party, [‘Labour Party manifesto 2024’](#), June 2024, pp 67–8.

²² Department for Science, Innovation and Technology, [‘Crackdown on intimate image abuse as government strengthens online safety laws’](#), 13 September 2024.

During the consideration of the regulations in the House of Lords, Baroness Jones of Whitchurch, minister in the Department for Science, Innovation and Technology (DSIT), said the government was looking at whether the law on the taking of images should be strengthened:

We are committed to tackling the threat of violence against women and girls in all forms. We are considering what further legislative measures may be needed to strengthen the law on taking intimate images without consent and image abuse. This matter is very much on the government's agenda at the moment.²³

Baroness Jones also said that work on how to legislate on sexually explicit deepfakes was in progress:

The government's manifesto included a commitment to banning the creation of sexually explicit deepfakes. This is a priority for the government. DSIT is working with the Home Office and the Ministry of Justice to identify the most appropriate legislative vehicle for ensuring that those who create these images without consent face the appropriate punishment. The government are considering options in this space to protect women and girls from malicious uses of these technologies.

²³ [HL Hansard, 28 October 2024, cols 166–8GC.](#)



5. Read more

- Baroness Owen of Alderley Edge, '[Baroness Owen: Why we must end the scourge of deepfake pornography](#)', Daily Mail, 5 September 2024
- Channel 4 News, '[Exclusive: Top UK politicians victims of deepfake pornography](#)', 1 July 2024
- End Violence Against Women Coalition, '[New campaign: Experts call for image-based abuse law](#)', 19 June 2024
- House of Commons Women and Equalities Committee, '[Oral evidence: Non-consensual intimate image abuse](#)', 8 May 2024, HC 664 of session 2023–24
- Revenge Porn Helpline, '[Not yours to view: How we want to stop non-consensually shared intimate images from being seen online](#)', 3 May 2024
- Lucy Morgan, '[91% of Glamour readers think deepfakes are a danger to women, so we went to Parliament to find out how they can be stopped](#)', Glamour, 29 February 2024
- [Oral question on 'AI: 'Nudify' apps'](#), HL Hansard, 13 February 2024, cols 132–5.

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