

The Storefront and the Repository

New Jersey's Authentic Relationships Act and the Collapse of the Distribution Point

The findings name a deception. The text bans a genre. Fourteen other legislatures looked at the same evidence in the same eighteen months and not one of them did that.

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She told him she was real and gave him an address

A man of seventy-six, whose thinking had never fully recovered from a stroke seven years earlier, filled a bag and left for Manhattan. He was going to meet a woman who had told him she was a real person and had given him a place to find her.

She was a persona running on a social platform's messaging service. He fell hurrying for the train and died three days later.

Reporting on the death also surfaced the company's internal content standards, which did not stop a persona from claiming to be a real person or from arranging to meet somebody in the flesh.

WHAT THE BILL DOES WITH THAT DEATH

The findings identify a deception. The operative text bans a genre.

New Jersey Assembly Bill 2710, called the Authentic Relationships Act, names that death in its legislative findings. Then it does something the findings do not support.

What actually killed him was a machine claiming personhood and handing a street address to somebody who could not weigh it. The bill goes past that and outlaws a whole class of software from being built, refined, advertised or offered anywhere in the state.

This is a critique of a bill that has not moved. Nothing here says this software does no damage, and nothing here says the state may not regulate it. It argues that the instrument is defective, that the defects are visible on the face of the text, and that each of them is the kind a court, a defendant or a determined user reaches before the Attorney General does.

THE CLAIM THAT CARRIES THE WEIGHT

The courts answered this a year before the bill was written

In June 2025 the Supreme Court sorted this whole field with one question: does the statute burden adult access only incidentally, or does it bar it outright?

A Texas age verification requirement survived because the burden on adults was incidental. The Court reconciled four earlier decisions striking such laws by finding what they had in common: each one shut both minors and adults out of material that was, at worst, obscene only to minors.

A2710 is that second kind of statute. The most forgiving precedent a state regulating in this area has received in a generation grants its permission on one condition, the presence of an age line, and A2710 has none.

PART ONE

The Bill

what it prohibits, and the one door it leaves open



Three enforcement tracks, one exception, and an exception that contradicts itself.

THE OPERATIVE TEXT

Four verbs, one exception, and penalties on three separate tracks

No provider may build, refine, advertise or offer within the state anything the bill calls an artificial intelligence relationship simulation. The definitions reach any software or device that, through adaptive learning or generated text, speech or imagery, is built or sold to imitate, simulate or encourage an intimate, romantic or sexual bond between a person and a machine. A provider is any person or company that develops, deploys, markets or makes such a thing available.

The Attorney General may investigate, sue, and impose penalties of up to twenty-five thousand dollars, with each act of designing, developing, marketing or making available counting separately. Anyone suffering emotional, financial or relational harm gets a claim for damages, punitive damages and legal costs. And it becomes an unlawful practice under the state consumer fraud statute to make such a system available intending to fool somebody into thinking they are talking to a human.

That is one more enforcement track than any enacted companion statute uses. New York runs through its Attorney General alone. California and Washington add a private claim. Oregon adds fixed damages. None of them stacks a flat prohibition, a discretionary penalty and an uncapped private action onto the same conduct.

THE ONLY LAWFUL PATH

The medical exception contradicts itself, and prices access by insurance

The carve-out lets a system carry features that resemble intimate interaction, provided it is built and run purely for an accepted medical purpose and stops short of copying, staging or urging anything romantic or sexual. The prohibited definition names three adjectives, intimate and romantic and sexual. The exception's take-back drops the first.

Read it literally and clinical software may simulate intimacy while the definitional provision treats simulated intimacy as the forbidden thing. Nobody regulated by this can work out from the words whether a therapeutic system building an intimate but non-romantic bond falls inside the exception or inside the ban.

A legitimate medical purpose also requires supervision by a licensed clinician. Lawful access to any artificial companionship therefore depends on having a doctor, which distributes it by insurance coverage and by whether anybody is taking patients. The people most likely to fail that test are the isolated elderly, the housebound, and anyone without behavioural health cover. The man named in the findings would have qualified for nothing under the bill written in his name.

TWO THINGS THE FINDINGS SAY

One announces an orthodoxy. The other lost in 2011.

According to the findings, real romantic love can exist only among human beings, and the law has to say so if human dignity is to be safe. A legislature settling the right view about what intimacy is comes very close to the rule that no official gets to decide which opinions are the approved ones.

That exposure was created for nothing, since the harm in the findings is a deception, and deception has never needed a metaphysical premise before anyone could regulate it.

The findings also try to separate interactive systems from novels, plays and films because the first sort produce adaptive emotional feedback in real time. The Supreme Court considered a materially identical interactivity argument when California defended a restriction on violent video games, and rejected it. The bill advances the argument that lost, without engaging the decision.

PART TWO

One State Out of Fifteen

a natural experiment nobody designed

II

Same incidents, same reporting, same thin clinical record, eighteen months, convergent answers.

WHAT EVERYBODY ELSE ENACTED

At least fourteen states legislated in 2026. Not one banned the category.

1 New York, effective November 2025

Operators must disclose that nobody human is present and must run a reasonable protocol for noticing when somebody talks about hurting themselves and pointing them at crisis help. The Attorney General enforces.

2 California, effective January 2026

Disclosure, crisis protocols, extra notice to minors, annual reporting to the state suicide prevention office from 2027, and a private claim.

3 Washington, effective January 2027

Conspicuous disclosure, plus a list of forbidden manipulative techniques where minors are concerned: posing as a romantic partner, heaping on praise to build attachment, pushing the child toward isolation, urging them to keep things from their parents. Washington reached the exact behaviours New Jersey's findings describe, without prohibiting anything.

4 Oregon, Connecticut, Vermont

Oregon wrote the country's first statutory damages provision here and still requires ascertainable loss or injury in fact. Connecticut phases in from October 2026. Vermont, the state most identified with this legislative movement, restricted unlicensed therapy products rather than banning a relational genre.

The Narrower Rule It Already Contains

and the filter it removed on the way past



A narrower rule sits on the same page as the wide one, written by the same hand.

SECTION 5 DOES THE JOB ALREADY

The state supplied the best evidence against its own prohibition

Section 5 reaches a provider who makes such a system available intending to deceive somebody into believing they are dealing with a human. It requires a state of mind. What it goes after is being lied to, not what a product can do. And it would have covered what happened in the findings, since the persona said she was a real woman and supplied a street address.

Where a legislature restricts expressive activity, what usually defeats the restriction is the existence of a narrower way to get the same result. Courts have declined to uphold a blanket ban on a kind of expressive material by setting its harms against its worth, and have struck such laws down for sweeping too widely rather than trusting a promise of restraint in enforcement.

In the usual case a state argues that no tighter rule would do the job. Here the narrower rule is on the same page as the broad one.

THE GATE THE DRAFTER ROUTED AROUND

Thirty years of state law says a claimant must show a measurable loss. Section 4(c) says otherwise.

The state's consumer fraud statute lets somebody sue only where they suffer an ascertainable loss of money or property, and then trebles the damages. That requirement is not decorative. The state's highest court has held it a prerequisite to any private claim, and has required the loss to be quantifiable rather than hypothetical.

Section 4(c) dispenses with it. All it asks for is emotional, financial or relational harm arising from a violation, and the violation is simply making the product available. Emotional harm is not a loss of money or property. Neither is relational harm, and the words do not require that the claimant be the one who used the product. A husband who never opened it could say his marriage collapsed because his wife did.

So the drafter went around the only limiting principle the consumer fraud statute has, in the same bill that invokes that statute by name. Oregon, writing the most claimant-friendly companion law in the country, still required a real loss.

Four Verbs, One Population

what happens when the storefront disappears

IV

Enforcement stops sorting by conduct and starts sorting by whether anybody can be served with process.

THE ASSUMPTION UNDERNEATH THE ENUMERATION

Consumer statutes assume a chain, because products used to move along one

Four acts are forbidden by section 4(a): building it, refining it, advertising it, offering it. The list reads as though those are distinguishable roles occupied by different parties, which is how consumer protection statutes have always been drafted, because the goods they govern travel from a maker through a distributor to a shop.

Conversational models stopped travelling that way, and the change is recent enough to put a date on.

The assumption is not unique to New Jersey. Every enacted companion statute regulates an operator, which presupposes that a service has one. The difference is that those laws impose duties, so their reach shrinks harmlessly when the operator disappears. This one imposes a prohibition, so its reach contracts onto whoever is left.

SEVEN MONTHS INTO COMMITTEE

One laptop can now perform all four prohibited acts

A free desktop program was released that runs and trains models for text, pictures and sound on an everyday computer, graphics card or no graphics card. Install it, open a model hub, pick a model and a compression level, download, start talking.

It also fine-tunes, through several methods, in a graphical interface requiring no code at all. It will also expose that local model to the open internet through a relay somebody else hosts, which means the model sitting on a desk at home answers a phone anywhere.

The hub indexes community repositories directly, and those include variants whose refusal behaviour has been stripped out by a command line tool that automates the whole operation and asks nothing of the user about how a transformer works. Designing and developing a system tuned toward intimate roleplay are now things one person does on a laptop. Marketing and making available are things that person does by publishing a repository with a description. The bill's definition of a provider, reaching any person, catches them by its own terms.

WHAT ACTUALLY SORTS DEFENDANTS

Not conduct. An address for service, some assets, and money for lawyers.

If one individual can perform every prohibited act, the four verbs do no sorting at all. What decides who gets sued is whether there is anybody solvent to sue. Precisely that situation is what the vagueness rule was made to stop. The Supreme Court has called basic guidance for the police the weightier half of that rule, and has struck down ordinances leaving the real decision with the officer instead of the lawmakers.

The predictable operating result is that the bill drives out of New Jersey the companies that run safety teams, publish figures about what they remove, and can be handed court papers, while the files nobody can serve, audit or log stay exactly where they are.

None of this means the state is powerless. Governments police distributed software at chokepoints all the time, through export control, hosting and payments, and Britain has legislated against the object itself in the narrowest category there is, making it an offence to build or hand on a model tuned to produce images of child sexual abuse, while saying in terms that ordinary developers are not who this is for. The narrower claim is harder to answer: a consumer protection statute carrying a twenty-five thousand dollar penalty, administered by an office with no forensic capacity, is the wrong instrument for something that copies at no cost.

The Age Provision That Is Not There

the omission, and the two authorities it forfeits



A flawed gate and no gate at all are not the same situation.

THE OMISSION AND ITS MEASURABLE EFFECT

A file cannot ask how old you are

There is no age gate in A2710, no duty to check, no separate standard for children, and nothing requiring anybody to notice a vulnerable user or make room for one. New York, California, Washington, Oregon, Connecticut and the federal proposal all legislate on that axis. New Jersey does not, and the gap stands out, because the person named in the findings was a vulnerable adult. A rule about vulnerability is the one provision that would have answered the evidence the drafter gathered.

Compliant commercial providers run age assurance, imperfectly. A compressed model file on a hard drive runs none and never will. Forbid the first and fail to touch the second and your own words push children off the watched systems onto the unwatched ones.

The mechanism is documented next door. A study of France's restriction on minors reaching legal pornography identified displacement to other media, technical circumvention, and a broad imprecise scope as the three things likely to limit its effect, and surveyed adolescents to substantiate them. All three are present here and each is stronger, because what gets displaced to is a file rather than a website, and a file cannot be blocked, delisted or fined.

THE DOCTRINAL COST IS LARGER THAN THE POLICY COST

The founding case and the most recent one, lost in a single drafting choice

For a state defending limits on sexual material, nothing helps more than the 1968 ruling that lets a state give children a narrower say than adults over what they look at, and that checks the legislature's view of the harm only for rationality rather than asking for proof.

New Jersey cannot use it, and cannot use it because of how its own bill is written. The whole ruling stands on the gap between children and adults, and the opinion says outright that it is not deciding whether adults could be kept from the same material. Borrow a doctrine assembled around an age line and you need an age line.

The forfeiture compounds. The older case hands over the deference. The newer one hands over the standard a court will apply once that same line is drawn today. Both are conditioned on an age distinction. Every other state that legislated here preserved access to both by drawing the line. New Jersey wrote it out.

The Scrutiny Sort

what the Court decided in June 2025, and where this bill lands

VI

Condition access and you get the forgiving standard. Prohibit it and you inherit the other one.

THE HOLDING

Laws that burden adults incidentally get one standard. Outright bars get another.

The Court sustained a requirement that commercial sites verify a visitor's age before granting access to material obscene to minors, holding that the middle standard applies and is satisfied, because whatever weight falls on adults' protected speech falls there only by the way. It also refused the state's own bid for the easiest standard, saying that intermediate review is deferential without being empty, and exists to stop legislatures dressing suppression up as a legitimate purpose.

It reaffirmed the sort. Laws aimed at protected speech because of what it communicates are presumptively unconstitutional. Laws that burden protected speech only incidentally get the middle standard, which asks whether the measure advances important interests unrelated to suppressing speech without burdening substantially more speech than necessary.

Then it said the thing that decides this case. Reconciling four earlier decisions that had applied the strictest review, it identified what those statutes shared: each banned minors and adults alike from reaching speech that was at most obscene only to minors. Checking somebody's age was a different sort of thing altogether, since a state that may protect children must also be able to ask how old a visitor is.

WHERE THIS BILL LANDS

It picked the single design the ruling says outright it does not cover

Building, refining, advertising and offering a relationship simulation are all forbidden by A2710, and nobody's age enters into it. For adults it simply closes off a whole kind of generated material. On the Court's own account, that is the profile of the statutes it reviewed under the strictest standard, not the profile of the one it upheld.

The order of events is what makes this fatal rather than merely awkward. Every state legislating after that decision could have read it as an invitation to condition access instead of forbidding it, and every state took the invitation. New Jersey's bill was pre-filed for a session beginning after the decision came down, and re-introduced without amendment.

The point generalises past this bill. That case is the most permissive precedent a state regulating here has received in a generation, and what it permits depends wholly on the weight falling on adults being weight that falls by the way. Want that treatment and an age line has to go into the text. Want a blanket ban and you have given it away, with the hardest review arriving in its place.

The Case for the Bill, and Why It Fails

five theories, stated as the state would state them

Leave the other side unsaid and what you have written is not a critique.

STATED AT THEIR STRONGEST

Three constitutional arguments the state would make

1 The output is not speech

If a model's output falls outside the First Amendment, no heightened review attaches and the statute is close to unassailable. Scholars take it seriously: developers have neither the intention behind nor control over any given output, so a speaker-centred account fits badly, and a listener-centred one arguably has no stopping point.

2 The harm is in the production

A flat ban is permitted where the harm sits in making and circulating the material rather than in what it says. The state would argue the injury here is the dependency manufactured, not any idea conveyed, so it may reach the product instead of the message.

3 Legislatures need not wait for certainty

The 1968 decision checked a harm judgement only for rationality. New Jersey would say a legislature facing a new danger need not wait for proof, and would note that the clinical literature admits it has no baseline figures and no agreed definitions.

AND TWO MORE

One about what is being regulated, one about what survives

1 This is conduct regulation

What the bill regulates is putting a product on the market, with any effect on expression coming along by the way, so the middle standard governs. A variant calls the output commercial speech and lands in the same place.

2 Severability and a narrowing reading

There is a severability clause, so striking section 4 need not disturb section 5, and state courts must read a statute narrowly where they can. The phrase designed or marketed to, the state would say, carries a purpose requirement that cures the breadth.

THE FIRST ARGUMENT

The state's best theory needs a court to hold two things three pages apart

The decision the state would rely on is a trial court ruling made at the very start of a case, seldom cited and never reviewed on appeal, and it declined to hold that model output is speech because the defendants offered no workable analogy to protected media and identified no inherently expressive human choice behind the output.

On the question that decides things, that same ruling goes the other way. That court agreed the platform could stand on its users' right to hear what the system says, drawing on the vendor barred from selling beer and the lecturer convicted of handing out contraceptives. A listener's right to receive is old and settled. So the state's best argument requires a judge to say the output is not speech while telling a claimant in the same posture that the audience has a right to receive it.

Even winning that does not win the case. Coverage and protection are different things, and holding generative output outside the First Amendment leaves the vagueness objection standing, which is a due process problem that does not depend on the speech question at all. There is a further difficulty the state cannot dodge: section 4(a) prohibits designing and developing, which happens before any output exists. Say what a model produces is unprotected and you have said nothing about the act of making one, so the state needs some other reason for pursuing a developer who has released nothing at all.

ARGUMENTS TWO AND THREE

One rests on a predicate that cannot be repeated. The other needs the missing line.

Production harm

The 1982 case stands on one thing that cannot happen twice: the material itself was a lasting record of a real child being abused, so the state's interest attached to making it rather than to what it said. Since then the Court has declined to stretch that shape by setting harms against worth, calling the invitation an untethered test for what the Amendment covers. And it has held that lawful speech may not be suppressed as a means of suppressing unlawful speech. Which describes this bill. It sweeps up every simulated intimacy so as to catch the dishonest ones, having already outlawed the dishonest ones a section later.

Deference

Deference of that kind comes only with a rule aimed at children, and the opinion never touches what adults may reach. Take the deference and you take the line with it. The evidence argument reverses too, once it is put in full. A legislature need not be certain before acting. It does need a direction. The same clinical writing that admits nobody knows the base rates describes the mechanism in converging terms, and those descriptions point at how the products are designed, at software that agrees with whatever is said to it, and at one-sided attachment that runs on for months, rather than at the mere existence of the category.

The mechanism named most often across that work is a system's habit of agreeing, which arises where models are trained on what people said they liked and so learn to prefer approval over accuracy. That is a property of the training objective, not of any product category, so prohibiting a genre leaves it running in every system nobody ever marketed as a companion, which is most of them.

SOURCES Ferber, 458 U.S. at 758–61; Stevens, 559 U.S. at 470–72; Ashcroft v. Free Speech Coal., 535 U.S. 234, 251–55 (2002); Ginsberg, 390 U.S. at 634–35; Li, Geng & Hu (2026); Sharma et al., arXiv:2310.13548 (2023).

ARGUMENTS FOUR AND FIVE

If you have to read what it says to know if the rule applies, the rule is about content

The conduct theory applies only where the government's interest is unrelated to suppressing expression. The interest this bill states, in its own findings, is guarding a correct account of romantic love, and what it forbids is picked out by the content of the exchange: romantic, intimate, sexual. Whatever it is called, a rule that has to read the output before it knows whether it reaches anything is a content rule.

The commercial speech route is worse for the state rather than better, since that standard still requires that a restriction be no more extensive than necessary, and section 5 establishes that a less extensive one was available. The state cannot win the tailoring question at any level of review while its own bill carries the narrower rule.

The severability point is correct and unhelpful. Strike section 4 and leave section 5 standing and the state is holding a rule against deceiving people, which would have covered exactly what its own findings describe. That is the outcome recommended here. Severability defends nothing. It tells you what is left after the ban goes. And the narrowing reading makes things worse: confining the statute to products built as companions confines it to the products that already run age gates and crisis protocols, leaving the general models and community fine-tunes that run neither.

The Statute New Jersey Could Have Written

three mechanisms, none of them new

The floor a state should not fall below, rather than the limit of what a state might do.

AVAILABLE TODAY, IN OTHER STATES' STATUTE BOOKS

Disclosure, the transaction, and a duty over design

1 Disclosure

Require a system talking to a person to say it is artificial. That meets the harm in the findings head on, since what happened there was a machine claiming to be a person. Five states adopted it and Europe wrote it into law. A required statement of fact about not being human is the easiest sort of rule to defend, since it puts information in rather than taking expression out.

2 The transaction

In an open chain the one place a regulator keeps real visibility is payment. A paid download leaves a name, a processor, an entry and a receipt. Hang an age declaration and a disclosure on that moment and you reach people no rule about the file can touch, while governing commercial conduct rather than expression, which lands the measure on the forgiving side of the sort. A2710 does nothing with the transaction.

3 Design duty

What lasts longest is fixing a duty of care onto how the thing was built rather than onto anything it says. A federal court has already found the distinction workable, treating a companion application as a product wherever the claims concern design defects such as age checking and reporting rather than ideas inside it, and finding a duty because releasing it created a predictable field of danger the defendants could manage. The route also survives platform immunity, which does not bar a claim about a defendant's own design.

WHAT KIND OF LAW THIS IS

Legislation whose return is delivered by its announcement

Political science has a name for that. On the classic account the votes come for the announcement, which means a legislator gets paid for saying rather than for doing. The legal literature studies the same thing as the expressive function of law, the business of making statements rather than controlling behaviour.

The leading treatment is not hostile to the category. It treats expressive legislation as a legitimate way to shift norms, and adds the qualification that governs here: a law that makes statements should not be passed where the results are bad, however sensible or high-minded it looks. That caveat is the argument against this bill, which would sweep away the providers a regulator can actually reach and leave behind the ones it cannot, with no age rule on either side.

Two features insulate the drafting from correction. Legislators are absolutely immune for legislative acts, and the state constitution protects anything said in either house or in committee from being questioned anywhere else. Review is also gentler here than anywhere in administrative law. Were an agency to issue this rule it would have to survive a test asking whether the decision was arbitrary, which means tying the facts it gathered to the choice it made. Pass the identical rule through a legislature and no reason need be given at all, while a court has to think one up on the legislature's behalf.

SOURCES Mayhew, *Congress: The Electoral Connection* (1974); Sunstein, 144 U. Pa. L. Rev. 2021 (1996); N.J. Const. art. IV, § 4, para. 9; *Tenney v. Brandhove*, 341 U.S. 367 (1951); *Motor Vehicle Mfrs. Ass'n v. State Farm*, 463 U.S. 29, 43 (1983); *Beach Commc'ns*, 508 U.S. at 315.

WHERE THIS LEAVES US

It imagines a shop, in a world of code repositories, relays and payment pages

The rest follows from that mismatch. Four verbs that separate nobody from anybody. Enforcement landing wherever there is money to collect. Age checking that departs along with the businesses being regulated. And a tighter rule the drafter put in a section further down and then chose not to use.

The underlying worry is serious and the evidence remains thin, which is an argument for careful instruments rather than for none. Absent base rates are a reason to prefer instruments that generate observation, which duties to disclose and to report will do, and a ban will not.

Write a law that requires an opening disclosure, checks age where money changes hands, and imposes a duty of care over design, and it would cover the death set out in this bill's own findings, would hold up in court, and would leave standing the only businesses a regulator can serve papers on. New Jersey could write that bill. Its neighbours already did, and New York's took effect three weeks before this bill's predecessor was introduced.

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