

HOUSE BILL 5

E1, O4

5lr0669

(PRE-FILED)

By: **Delegate Wilson**

Requested: September 5, 2024

Introduced and read first time: January 8, 2025

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Child Pornography – Artificial Intelligence Software**

3 FOR the purpose of defining “computer-generated image” to include images created
4 through the use of artificial intelligence software as the term pertains to provisions
5 of law related to child pornography; and generally relating to child pornography and
6 artificial intelligence software.

7 BY repealing and reenacting, with amendments,

8 Article – Criminal Law

9 Section 11–208

10 Annotated Code of Maryland

11 (2021 Replacement Volume and 2024 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
13 That the Laws of Maryland read as follows:

14 **Article – Criminal Law**

15 11–208.

16 (a) (1) In this section[, “indistinguishable] **THE FOLLOWING WORDS HAVE**
17 **THE MEANINGS INDICATED.**

18 **(2) “COMPUTER-GENERATED IMAGE” INCLUDES IMAGES CREATED**
19 **THROUGH THE USE OF ARTIFICIAL INTELLIGENCE SOFTWARE.**

20 **(3) (I) “INDISTINGUISHABLE** from an actual and identifiable child”
21 means an ordinary person would conclude that the image is of an actual and identifiable
22 minor.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 ~~[(2)]~~ **(II)** “Indistinguishable from an actual and identifiable child”
2 includes a computer-generated image that has been created, adapted, or modified to appear
3 as an actual and identifiable child.

4 ~~[(3)]~~ **(III)** “Indistinguishable from an actual and identifiable child” does not
5 include images or items depicting minors that are:

- 6 ~~[(i)]~~ **1.** drawings;
- 7 ~~[(ii)]~~ **2.** cartoons;
- 8 ~~[(iii)]~~ **3.** sculptures; or
- 9 ~~[(iv)]~~ **4.** paintings.

10 (b) (1) A person may not knowingly possess and intentionally retain a film,
11 videotape, photograph, or other visual representation showing an actual child or a
12 computer-generated image that is indistinguishable from an actual and identifiable child
13 under the age of 16 years:

- 14 (i) engaged as a subject of sadomasochistic abuse;
- 15 (ii) engaged in sexual conduct; or
- 16 (iii) in a state of sexual excitement.

17 (2) A person may not knowingly or intentionally access and intentionally
18 view a film, videotape, photograph, or other visual representation showing an actual child
19 or a computer-generated image that is indistinguishable from an actual and identifiable
20 child under the age of 16 years:

- 21 (i) engaged as a subject of sadomasochistic abuse;
- 22 (ii) engaged in sexual conduct; or
- 23 (iii) in a state of sexual excitement.

24 (c) (1) Except as provided in paragraph (2) of this subsection, a person who
25 violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment
26 not exceeding 5 years or a fine not exceeding \$2,500 or both.

27 (2) A person who violates this section, having previously been convicted
28 under this section, is guilty of a felony and on conviction is subject to imprisonment not
29 exceeding 10 years or a fine not exceeding \$10,000 or both.

1 (d) Nothing in this section may be construed to prohibit a parent from possessing
2 visual representations of the parent's own child in the nude unless the visual
3 representations show the child engaged:

4 (1) as a subject of sadomasochistic abuse; or

5 (2) in sexual conduct and in a state of sexual excitement.

6 (e) It is an affirmative defense to a charge of violating this section that the person
7 promptly and in good faith:

8 (1) took reasonable steps to destroy each visual representation; or

9 (2) reported the matter to a law enforcement agency.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2025.