

# SENATE BILL 545

E1  
SB 65/24 – JPR

5lr1776  
CF HB 364

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By: ~~Senator James~~ **Senators James, Smith, Waldstreicher, West, Muse, Folden,  
Henson, Love, McKay, and Charles**

Introduced and read first time: January 23, 2025

Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 7, 2025

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Criminal Law – Child Pornography – Prohibitions and Penalties**

3 FOR the purpose of prohibiting a person from possessing or viewing certain child  
4 pornography under certain circumstances; and generally relating to child  
5 pornography prohibitions and penalties.

6 BY repealing and reenacting, without amendments,

7 Article – Criminal Law

8 Section 11–207 and 11–208

9 Annotated Code of Maryland

10 (2021 Replacement Volume and 2024 Supplement)

11 BY adding to

12 Article – Criminal Law

13 Section 11–208.2

14 Annotated Code of Maryland

15 (2021 Replacement Volume and 2024 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

17 That the Laws of Maryland read as follows:

18 **Article – Criminal Law**

19 11–207.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (a) A person may not:

2 (1) cause, induce, solicit, or knowingly allow a minor to engage as a subject  
3 in the production of obscene matter or a visual representation or performance that depicts  
4 a minor engaged as a subject in sadomasochistic abuse or sexual conduct;

5 (2) photograph or film a minor engaging in an obscene act, sadomasochistic  
6 abuse, or sexual conduct;

7 (3) use a computer to depict or describe a minor engaging in an obscene act,  
8 sadomasochistic abuse, or sexual conduct;

9 (4) knowingly promote, advertise, solicit, distribute, or possess with the  
10 intent to distribute any matter, visual representation, or performance:

11 (i) that depicts a minor engaged as a subject in sadomasochistic  
12 abuse or sexual conduct; or

13 (ii) in a manner that reflects the belief, or that is intended to cause  
14 another to believe, that the matter, visual representation, or performance depicts a minor  
15 engaged as a subject of sadomasochistic abuse or sexual conduct; or

16 (5) use a computer to knowingly compile, enter, transmit, make, print,  
17 publish, reproduce, cause, allow, buy, sell, receive, exchange, or disseminate any notice,  
18 statement, advertisement, or minor's name, telephone number, place of residence, physical  
19 characteristics, or other descriptive or identifying information for the purpose of engaging  
20 in, facilitating, encouraging, offering, or soliciting unlawful sadomasochistic abuse or  
21 sexual conduct of or with a minor.

22 (b) A person who violates this section is guilty of a felony and on conviction is  
23 subject to:

24 (1) for a first violation, imprisonment not exceeding 10 years or a fine not  
25 exceeding \$25,000 or both; and

26 (2) for each subsequent violation, imprisonment not exceeding 20 years or  
27 a fine not exceeding \$50,000 or both.

28 (c) (1) (i) This paragraph applies only if the minor's identity is unknown  
29 or the minor is outside the jurisdiction of the State.

30 (ii) In an action brought under this section, the State is not required  
31 to identify or produce testimony from the minor who is depicted in the obscene matter or in  
32 any visual representation or performance that depicts the minor engaged as a subject in  
33 sadomasochistic abuse or sexual conduct.



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

5 (i) engaged as a subject of sadomasochistic abuse;

6 (ii) engaged in sexual conduct; or

7 (iii) in a state of sexual excitement.

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

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

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

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

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

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

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

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

23 **11-208.2.**

24 (A) (1) IN THIS SECTION, "IMAGE" MEANS ANY MATTER, VISUAL  
25 REPRESENTATION, OR PERFORMANCE, INCLUDING PHOTOGRAPHS, PICTURES,  
26 ELECTRONIC PHOTOGRAPHS, COMPUTER-GENERATED IMAGES, VIDEOS,  
27 ELECTRONIC VIDEOS, FILM, VIDEOTAPES, OR SIMILAR VISUAL REPRESENTATIONS  
28 OR VIDEO DEPICTIONS.

29 (2) FOR THE PURPOSES OF DETERMINING THE NUMBER OF IMAGES  
30 IN POSSESSION OF AN INDIVIDUAL IN VIOLATION OF THIS SECTION:

1                   **(I) EACH PHOTOGRAPH, PICTURE, ELECTRONIC PHOTOGRAPH,**  
2 **COMPUTER-GENERATED IMAGE, OR SIMILAR VISUAL REPRESENTATION SHALL BE**  
3 **DEEMED TO BE ONE IMAGE; AND**

4                   **(II) EACH VIDEO, ELECTRONIC VIDEO, FILM, VIDEOTAPE, OR**  
5 **SIMILAR VIDEO DEPICTION SHALL BE DEEMED TO BE 20 IMAGES.**

6           **(B) (1) A PERSON MAY NOT VIOLATE § 11-207(A)(4) OR § 11-208(B)(1) OF**  
7 **THIS SUBTITLE WITH 100 OR MORE IMAGES.**

8                   **(2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A**  
9 **FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10**  
10 **YEARS.**

11                   **(3) A SENTENCE IMPOSED UNDER THIS SUBSECTION MAY BE**  
12 **SEPARATE FROM AND CONSECUTIVE TO OR CONCURRENT WITH A SENTENCE**  
13 **IMPOSED FOR ANY OTHER CRIME BASED ON THE ACT ESTABLISHING A VIOLATION**  
14 **OF § 11-207 OR § 11-208 OF THIS SUBTITLE.**

15           **(C) (1) A PERSON MAY NOT VIOLATE § 11-207(A)(4) OR § 11-208(B)(1) OR**  
16 **(2) OF THIS SUBTITLE WITH ANY IMAGE DEPICTING A MINOR OR AN INDIVIDUAL**  
17 **INDISTINGUISHABLE FROM AN ACTUAL AND IDENTIFIABLE CHILD UNDER THE AGE**  
18 **OF 13 YEARS.**

19                   **(2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A**  
20 **FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10**  
21 **YEARS.**

22                   **(3) A SENTENCE IMPOSED UNDER THIS SUBSECTION MAY BE**  
23 **SEPARATE FROM AND CONSECUTIVE TO OR CONCURRENT WITH A SENTENCE**  
24 **IMPOSED FOR ANY OTHER CRIME BASED ON THE ACT ESTABLISHING A VIOLATION**  
25 **OF § 11-207 OR § 11-208 OF THIS SUBTITLE.**

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