

Department of Legislative Services  
Maryland General Assembly  
2025 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 5  
Judiciary

(Delegate Wilson)

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Criminal Law - Child Pornography - Artificial Intelligence Software

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This bill specifies that for purposes of § 11-208 of the Criminal Law Article, a “computer-generated image” includes images created through the use of artificial intelligence software.

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Fiscal Summary

**State Effect:** The bill is not anticipated to materially affect State operations or finances.

**Local Effect:** The bill is not anticipated to materially affect local government operations or finances.

**Small Business Effect:** None.

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Analysis

**Current Law:** Section 11-208 of the Criminal Law Article prohibits a person from (1) knowingly possessing and intentionally retaining or (2) knowingly or intentionally accessing and intentionally viewing a film, videotape, photograph, or other visual representation showing an actual child or a *computer-generated image* that is indistinguishable from an actual and identifiable child younger than age 16 engaged as a subject of sadomasochistic abuse, engaged in sexual conduct, or in a state of sexual excitement. Violators are guilty of a misdemeanor punishable by imprisonment for up to 5 years and/or a \$2,500 maximum fine for a first offense. A person who has previously been convicted under § 11-208 is guilty of a felony punishable by imprisonment for up to 10 years and/or a \$10,000 maximum fine.

Section 11-208 does not prohibit a parent from possessing visual representations of the parent's own child in the nude unless the visual representations show the child engaged as a subject of sadomasochistic abuse or in sexual conduct and in a state of sexual excitement.

It is an affirmative defense to a charge of violating § 11-208 that the person promptly and in good faith (1) took reasonable steps to destroy each visual representation or (2) reported the matter to a law enforcement agency.

“Indistinguishable from an actual and identifiable child” means an ordinary person would conclude that the image is of an actual and identifiable minor. “Indistinguishable from an actual and identifiable child” includes a *computer-generated image* that has been created, adapted, or modified to appear as an actual and identifiable child. It does not include images or items depicting minors that are drawings, cartoons, sculptures, or paintings.

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### **Additional Information**

**Recent Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Department of Public Safety and Correctional Services; Department of Legislative Services

**Fiscal Note History:** First Reader - February 2, 2025  
caw/aad

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Analysis by: Donovan A. Ham

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510