

HOUSE BILL 1294

E1, O4
HB 5/25 – JUD

6lr2780

By: **Delegate Wilson**

Introduced and read first time: February 12, 2026

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Child Sexual Abuse Material – Artificial Intelligence Software**

3 FOR the purpose of altering the term “child pornography” to be “child sexual abuse
4 material” for purposes of certain criminal offenses; defining “computer-generated
5 image” to include images created through the use of artificial intelligence software
6 as the term pertains to provisions of law related to child sexual abuse material; and
7 generally relating to child sexual abuse material.

8 BY repealing and reenacting, with amendments,
9 Article – Courts and Judicial Proceedings
10 Section 10–402(c)(2)(ii)1.F. and 10–406(a)(6)
11 Annotated Code of Maryland
12 (2020 Replacement Volume and 2025 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article – Criminal Law
15 Section 9–801(g)(10), 11–208, and 11–208.1
16 Annotated Code of Maryland
17 (2021 Replacement Volume and 2025 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article – Criminal Procedure
20 Section 2–503(a)(1)(i)4.
21 Annotated Code of Maryland
22 (2025 Replacement Volume)

23 BY repealing and reenacting, with amendments,
24 Article – Education
25 Section 23–506.1
26 Annotated Code of Maryland
27 (2022 Replacement Volume and 2025 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Courts and Judicial Proceedings**

4 10–402.

5 (c) (2) (ii) It is lawful under this subtitle for an investigative or law
6 enforcement officer acting in a criminal investigation or any other person acting at the prior
7 direction and under the supervision of an investigative or law enforcement officer to
8 intercept a wire, oral, or electronic communication in order to provide evidence:

9 1. Of the commission of:

10 F. Child [pornography] **SEXUAL ABUSE MATERIAL** under §
11 11–207, § 11–208, or § 11–208.1 of the Criminal Law Article;

12 10–406.

13 (a) The Attorney General, State Prosecutor, or any State’s Attorney may apply to
14 a judge of competent jurisdiction, and the judge, in accordance with the provisions of §
15 10–408 of this subtitle, may grant an order authorizing the interception of wire, oral, or
16 electronic communications by investigative or law enforcement officers when the
17 interception may provide or has provided evidence of the commission of:

18 (6) Child [pornography] **SEXUAL ABUSE MATERIAL** under § 11–207, §
19 11–208, or § 11–208.1 of the Criminal Law Article;

20 **Article – Criminal Law**

21 9–801.

22 (g) “Underlying crime” means:

23 (10) a violation of § 11–207 or § 11–208 of this article (child [pornography]
24 **SEXUAL ABUSE MATERIAL**);

25 11–208.

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

28 **(2) “COMPUTER–GENERATED IMAGE” INCLUDES IMAGES CREATED**
29 **THROUGH THE USE OF ARTIFICIAL INTELLIGENCE SOFTWARE.**

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

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

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

- 9 **[(i)] 1.** drawings;
- 10 **[(ii)] 2.** cartoons;
- 11 **[(iii)] 3.** sculptures; or
- 12 **[(iv)] 4.** paintings.

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

- 17 **(i)** engaged as a subject of sadomasochistic abuse;
- 18 **(ii)** engaged in sexual conduct; or
- 19 **(iii)** in a state of sexual excitement.

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

- 24 **(i)** engaged as a subject of sadomasochistic abuse;
- 25 **(ii)** engaged in sexual conduct; or
- 26 **(iii)** in a state of sexual excitement.

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

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

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

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

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

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

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

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

13 11-208.1.

14 (a) (1) In this section the following words have the meanings indicated.

15 (2) "Child [pornography] **SEXUAL ABUSE MATERIAL**" means any
16 electronic image or visual depiction that is unlawful under § 11-207 or § 11-208 of this
17 subtitle.

18 (3) "Controlled or owned", with respect to a server or other storage device,
19 means to be entirely owned by an interactive computer service provider or to be subject to
20 exclusive management by an interactive computer service provider by agreement or
21 otherwise.

22 (4) "Interactive computer service provider" means an entity that provides
23 a service that provides or enables computer access via the Internet by multiple users to a
24 computer server or similar device used for the storage of graphics, video, or images.

25 (b) An investigative or law enforcement officer who receives information that an
26 item of alleged child [pornography] **SEXUAL ABUSE MATERIAL** resides on a server or other
27 storage device controlled or owned by an interactive computer service provider shall:

28 (1) contact the interactive computer service provider that controls or owns
29 the server or other storage device where the item of alleged child [pornography] **SEXUAL**
30 **ABUSE MATERIAL** is located;

31 (2) inform the interactive computer service provider of the provisions of
32 this section; and

1 (3) request that the interactive computer service provider voluntarily
2 comply with this section and remove the item of alleged child [pornography] **SEXUAL**
3 **ABUSE MATERIAL** from its server or other storage device, if practicable, within 5 business
4 days.

5 (c) (1) If the interactive computer service provider does not voluntarily remove
6 the item of alleged child [pornography] **SEXUAL ABUSE MATERIAL** within the time period
7 established in subsection (b) of this section, the investigative or law enforcement officer
8 shall apply for a court order of authorization to remove the item of alleged child
9 [pornography] **SEXUAL ABUSE MATERIAL** in accordance with Title 10, Subtitle 4 of the
10 Courts Article.

11 (2) The application for a court order shall:

12 (i) identify the item of alleged child [pornography] **SEXUAL ABUSE**
13 **MATERIAL** discovered on the server or other storage device controlled or owned by an
14 interactive computer service provider;

15 (ii) provide its location on the server or other storage device in the
16 form of an Internet protocol (IP) address or uniform resource locator (URL);

17 (iii) state the grounds for the issuance of the order;

18 (iv) verify that the item of alleged child [pornography] **SEXUAL**
19 **ABUSE MATERIAL** resides on the server or other storage device controlled or owned by the
20 interactive computer service provider;

21 (v) describe the steps taken to obtain voluntary compliance of the
22 interactive computer service provider with this section;

23 (vi) inform the interactive computer service provider of its right to
24 request a hearing on the application; and

25 (vii) state the name and title of the affiant.

26 (3) The investigative or law enforcement officer shall serve the application
27 on the interactive computer service provider.

28 (4) The interactive computer service provider has the right to request a
29 hearing before the court imposes any penalty under this section.

30 (d) The court shall review the application and testimony, if offered, and, upon a
31 finding of probable cause, issue an order that:

1 (1) an item of child [pornography] **SEXUAL ABUSE MATERIAL** resides on
2 a server or other storage device controlled or owned by the interactive computer service
3 provider or is accessible to persons located in the State;

4 (2) there is probable cause to believe that the item violates § 11–207 or §
5 11–208 of this subtitle;

6 (3) the interactive computer service provider shall remove the item
7 residing on a server or other storage device controlled or owned by the interactive computer
8 service provider within 5 business days after receiving the order, if practicable;

9 (4) failure of the interactive computer service provider to comply with the
10 court's order is a violation of this section;

11 (5) the removal of the item on the server or other storage device controlled
12 or owned by the interactive computer service provider may not unreasonably interfere with
13 a request by a law enforcement agency to preserve records or other evidence;

14 (6) the process of removal shall be conducted in a manner that prevents the
15 removal of images, information, or data not otherwise subject to removal under this section;
16 and

17 (7) provides the interactive computer service provider notice and
18 opportunity for a hearing before the court imposes any penalty under this section.

19 (e) (1) The Office of the State's Attorney shall serve the court's order on the
20 interactive computer service provider.

21 (2) The order shall be accompanied by:

22 (i) the application made under subsection (c) of this section;

23 (ii) notification requiring the interactive computer service provider
24 to remove the item residing on a server or other storage device controlled or owned by the
25 interactive computer service provider, if practicable, within 5 business days after receiving
26 the order;

27 (iii) notification of the criminal penalties for failure to remove the
28 item of child [pornography] **SEXUAL ABUSE MATERIAL**;

29 (iv) notification of the right to appeal the court's order; and

30 (v) contact information for the Office of the State's Attorney.

31 (f) An interactive computer service provider who is served with a court order
32 under subsection (e) of this section shall remove the item of child [pornography] **SEXUAL**

1 **ABUSE MATERIAL** that is the subject of the order within 5 business days after receiving
2 the court order, if practicable.

3 (g) (1) An interactive computer service provider may petition the court for
4 relief for cause from an order issued under subsection (d) of this section.

5 (2) The petition may be based on considerations of:

6 (i) the cost or technical feasibility of compliance with the order; or

7 (ii) the inability of the interactive computer service provider to
8 comply with the order without also removing data, images, or information that are not
9 subject to this section.

10 (h) (1) (i) Subject to subparagraph (ii) of this paragraph, an interactive
11 computer service provider shall report the location of an item of child [pornography]
12 **SEXUAL ABUSE MATERIAL** to the State Police if the item of child [pornography] **SEXUAL**
13 **ABUSE MATERIAL**:

14 1. resides on a server or other storage device that is:

15 A. controlled or owned by the interactive computer service
16 provider; and

17 B. located in the State; or

18 2. based on information apparent to the provider at the time
19 of the report or discovery of an item of child [pornography] **SEXUAL ABUSE MATERIAL**,
20 pertains to a subscriber or user of the interactive computer service who resides in the State.

21 (ii) Subparagraph (i) of this paragraph does not apply to an
22 interactive computer service provider if:

23 1. federal law expressly provides for or permits the referral
24 of a report of an item of child [pornography] **SEXUAL ABUSE MATERIAL** to a state or local
25 law enforcement agency; and

26 2. the interactive computer service provider complies with
27 the federal law.

28 (2) An interactive computer service provider who knowingly and willfully
29 fails to report the information required under paragraph (1) of this subsection is guilty of a
30 misdemeanor and on conviction is subject to:

31 (i) for a first violation, a fine not exceeding \$5,000;

1 (ii) for a second violation, a fine not exceeding \$20,000; and

2 (iii) for each subsequent violation, a fine not exceeding \$30,000.

3 (i) An interactive computer service provider who willfully violates subsection (f)
4 of this section is guilty of a misdemeanor and on conviction is subject to:

5 (1) for a first violation, a fine not exceeding \$5,000;

6 (2) for a second violation, a fine not exceeding \$20,000; and

7 (3) for each subsequent violation, a fine not exceeding \$30,000.

8 (j) An interactive computer service provider who willfully violates subsection (f)
9 or (h) of this section may be prosecuted, indicted, tried, and convicted in any county in or
10 through which:

11 (1) the interactive computer service provider provides access to the
12 Internet;

13 (2) any communication from the interactive computer service provider
14 traveled; or

15 (3) the communication from the interactive computer service provider
16 originated or terminated.

17 (k) (1) This section does not impose a duty on an interactive computer service
18 provider actively to monitor its service or affirmatively to seek evidence of an item of child
19 [pornography] **SEXUAL ABUSE MATERIAL** on its service.

20 (2) This section does not apply to the interactive computer service
21 provider's transmission or routing of, or intermediate temporary storage or caching of, an
22 image, information, or data that otherwise is subject to this section.

23 (l) An interactive computer service provider may not be held liable for any action
24 taken in good faith to comply with this section.

25 Article – Criminal Procedure

26 2–503.

27 (a) (1) A police officer or other employee or agent of a law enforcement agency
28 may not, in the furtherance of a criminal investigation:

29 (i) use facial recognition technology to investigate a crime other
30 than the commission of or the attempt to commit:

