

SENATE BILL 736

E1

6lr1847

By: **Senator Benson**

Introduced and read first time: February 6, 2026

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Obscene Matter – Visual Representation of Child**

3 FOR the purpose of altering the maximum age of a certain child that may not be depicted
4 in certain visual representations; altering the penalties for knowingly possessing and
5 intentionally retaining, and knowingly or intentionally accessing and intentionally
6 viewing, certain visual representations; authorizing a person depicted in a certain
7 visual representation to bring a certain civil action; requiring the Attorney General
8 to submit a certain annual report; and generally relating to obscene matter.

9 BY repealing and reenacting, with amendments,
10 Article – Criminal Law
11 Section 11–208
12 Annotated Code of Maryland
13 (2021 Replacement Volume and 2025 Supplement)

14 BY adding to
15 Article – State Government
16 Section 6–112
17 Annotated Code of Maryland
18 (2021 Replacement Volume and 2025 Supplement)

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

21 **Article – Criminal Law**

22 11–208.

23 (a) (1) In this section, “indistinguishable from an actual and identifiable child”
24 means an ordinary person would conclude that the image is of an actual and identifiable
25 minor.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2) “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.

(3) “Indistinguishable from an actual and identifiable child” does not include images or items depicting minors that are:

- (i) drawings;
- (ii) cartoons;
- (iii) sculptures; or
- (iv) paintings.

(b) (1) A person may not knowingly possess and intentionally retain 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 under the age of **[16] 18** years:

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

(2) A person may not knowingly or intentionally access and intentionally view 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 under the age of **[16] 18** years:

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

(c) (1) Except as provided in paragraph (2) of this subsection, a person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding **[5] 10** years or a fine not exceeding **[\$2,500] \$25,000** or both.

(2) A person who violates this section, having previously been convicted under this section, is guilty of a felony and on conviction is subject to imprisonment not exceeding **[10] 20** years or a fine not exceeding **[\$10,000] \$50,000** or both.

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

(1) as a subject of sadomasochistic abuse; or

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

(e) It is an affirmative defense to a charge of violating this section 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.

(F) (1) A PERSON DEPICTED IN A VISUAL REPRESENTATION THAT IS INVOLVED IN A VIOLATION OF THIS SECTION MAY BRING A CIVIL ACTION IN A COURT OF COMPETENT JURISDICTION.

(2) IN AN ACTION UNDER THIS SUBSECTION, THE COURT MAY AWARD:

(I) ACTUAL DAMAGES;

(II) PUNITIVE DAMAGES NOT EXCEEDING \$250,000;

(III) REASONABLE ATTORNEY'S FEES AND COSTS; AND

(IV) ANY OTHER APPROPRIATE RELIEF.

(3) A CONVICTION FOR AN OFFENSE UNDER THIS SECTION IS NOT A PREREQUISITE FOR MAINTENANCE OF AN ACTION UNDER THIS SUBSECTION.

Article – State Government

6–112.

(A) ON OR BEFORE DECEMBER 1 EACH YEAR, THE ATTORNEY GENERAL SHALL SUBMIT A REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2–1257 OF THE STATE GOVERNMENT ARTICLE, THAT:

(1) PROVIDES GUIDANCE TO LAW ENFORCEMENT AGENCIES REGARDING BEST PRACTICES FOR DETECTING COMPUTER-GENERATED IMAGES IN VIOLATION OF § 11–208 OF THE CRIMINAL LAW ARTICLE;

1 **(2) DISCUSSES CHANGES TO TECHNOLOGY THAT AFFECT**
2 **ENFORCEMENT OF § 11–208 OF THE CRIMINAL LAW ARTICLE;**

3 **(3) INCLUDES DATA ON CHARGES AND PROSECUTIONS UNDER §**
4 **11–208 OF THE CRIMINAL LAW ARTICLE DURING THE PRIOR 1–YEAR PERIOD; AND**

5 **(4) IS PUBLICLY AVAILABLE ON THE ATTORNEY GENERAL’S WEBSITE.**

6 **(B) THE ATTORNEY GENERAL MAY PARTNER WITH OTHER STATE**
7 **AGENCIES OR ANOTHER ORGANIZATION TO COMPLETE THE REPORT REQUIRED**
8 **UNDER THIS SECTION.**

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2026.