

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 924
Judiciary

(Delegate Nkongolo, *et al.*)

Child Exploitation Material - Civil and Criminal Actions (Safe Kids Act)

This bill prohibits an online platform from knowingly and intentionally engaging in specified conduct related to the creation or dissemination of “unlawful child exploitation material” and establishes a civil cause of action for violations of this prohibition. The bill also expands application of the prohibitions on possessing or accessing/viewing child pornography under § 11-208 of the Criminal Law Article and specifies that a “computer-generated image” under that statute includes an image created through the use of artificial intelligence (AI) software.

Fiscal Summary

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

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

Small Business Effect: Minimal.

Analysis

Bill Summary:

Definitions

The bill incorporates the definition of “obscene” under § 11-203 of the Criminal Law Article and the definition of “child pornography” under § 11-208.1 of the Criminal Law Article, which defines that term as any electronic image or visual depiction that is unlawful

under § 11-207 (distribution of child pornography) or § 11-208 (possessing or accessing/viewing child pornography) of the Criminal Law Article. The bill defines numerous additional terms, including “unlawful child exploitation material,” which means child pornography, obscene material involving a minor, or a child sexual exploitation device or image.

Prohibited Activities and Civil Cause of Action

An online platform may not knowingly and intentionally (1) issue, sell, deliver, distribute, transfer, or disseminate unlawful child exploitation material or (2) create or develop, in whole or in part, unlawful child exploitation material on or by using the Internet.

The parent or legal guardian of a minor who is depicted in or exposed to unlawful child exploitation material in violation of this prohibition may bring a civil cause of action against the online platform for nominal damages; actual damages; court costs; punitive damages; and reasonable attorney’s fees and litigation costs, including expert witness fees and court reporter fees. These remedies are cumulative and may not be construed as restricting any other available legal remedy. A criminal conviction for the conduct that is the basis of the violation and exhaustion of available administrative remedies are not prerequisites for these remedies.

An online platform must be held jointly and severally liable for a violation, and individual claims that satisfy applicable standards for joinder or class action may be combined in a single action. Sovereign immunity is not an affirmative defense to a violation.

The Attorney General may seek injunctive relief or other equitable relief to enforce these provisions.

Possessing, Accessing, or Viewing Child Pornography

The bill expands application of the prohibitions under § 11-208 of the Criminal Law Article to a *minor* (defined as an individual younger than age 18 under existing statute) rather than the current application to a child younger than age 16 and makes corresponding changes. The bill also clarifies that for purposes of § 11-208, a “computer-generated image” includes an image created through the use of AI software.

Current Law:

Sale or Display of an Obscene Item to a Minor

Section 11-203 of the Criminal Law Article prohibits a person from willfully or knowingly displaying or exhibiting or engaging in the business of displaying, exhibiting, selling,

showing, advertising for sale, or distributing to a minor an “item” (1) the cover or content of which is principally made up of an obscene description or depiction of illicit sex or (2) that consists of an obscene picture of a nude or partially nude figure. If a newsstand or other place of business is frequented by minors, the owner, operator, franchisee, manager, or an employee with managerial responsibility may not openly and knowingly display at the place of business an item whose sale, display, exhibition, showing, or advertising is prohibited as specified above.

Violators are guilty of a misdemeanor, punishable by imprisonment for up to one year and/or a \$1,000 maximum fine for a first violation and imprisonment for up to three years and/or a \$5,000 maximum fine for each subsequent violation.

Under § 11-203, “obscene” means (1) that the average adult applying contemporary community standards would find that the work, taken as a whole, appeals to the prurient interest; (2) that the work depicts specified sexual conduct in a way that is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material; and (3) that the work, taken as a whole, lacks serious artistic, educational, literary, political, or scientific value. An “item” means a still picture, photograph, book, pocket book, pamphlet, magazine, videodisc, videotape, video game, film, computer disc, or recorded telephone message.

Production or Distribution of Child Pornography

Under § 11-207 of the Criminal Law Article, a person may not:

- cause, induce, solicit, or knowingly allow a minor to engage as a subject in the production of obscene matter or a visual representation or performance that depicts a minor engaged as a subject in sadomasochistic abuse or sexual conduct;
- photograph or film a minor engaging in an obscene act, sadomasochistic abuse, or sexual conduct;
- use a computer to depict or describe a minor engaging in an obscene act, sadomasochistic abuse, or sexual conduct;
- knowingly promote, advertise, solicit, distribute, or possess with the intent to distribute any matter, visual representation, or performance that depicts a minor engaged as a subject in sadomasochistic abuse or sexual conduct or in a manner that reflects the belief, or that is intended to cause another to believe, that the matter, visual representation or performance depicts a minor engaged as a subject of sadomasochistic abuse or sexual conduct; or
- use a computer to knowingly compile, enter, transmit, make, print, publish, reproduce, cause, allow, buy, sell, receive, exchange, or disseminate any notice, statement, advertisement, or minor’s name, telephone number, place of residence,

physical characteristics, or other descriptive or identifying information for the purpose of engaging in, facilitating, encouraging, offering, or soliciting unlawful sadomasochistic abuse or sexual conduct of or with a minor.

Violators are guilty of a felony, punishable by (1) for a first violation, imprisonment for up to 10 years and/or a \$25,000 maximum fine and (2) for each subsequent violation, imprisonment for up to 20 years and/or a \$50,000 maximum fine.

Possessing or Accessing/Viewing Child Pornography

Section 11-208(b)(1) of the Criminal Law Article prohibits a person from knowingly possessing and intentionally retaining 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. Section 11-208(b)(2) contains a similar prohibition that applies to knowingly or intentionally accessing and intentionally viewing these materials.

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.

Under § 11-208, "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.

State Expenditures: Both the Office of the Attorney General (OAG) and the Office of the Public Defender advise that the enforcement of the bill requires one additional attorney for their respective agencies. The Department of Legislative Services advises that while the bill authorizes OAG to pursue injunctive relief and expands specified criminal provisions, there is insufficient information to indicate the need for immediate additional

resources. Should actual experienced workloads require additional personnel, these agencies can request those resources through the annual budget process.

Additional Information

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

Designated Cross File: SB 989 (Senator Henson) - Rules.

Information Source(s): Office of the Attorney General; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Department of Public Safety and Correctional Services; Department of Legislative Services

Fiscal Note History: First Reader - March 3, 2026
caw/jkb

Analysis by: Amy A. Devadas

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