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VIA MYMGA

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Chair Delegate J. Sandy Bartlett
Vice Chair - Delegate Debra Davis
Judiciary Committee
Maryland House of Delegates
100 Taylor House Office Building
Annapolis, Maryland 21401

RE: Letter of Support – House Bill 924 (Safe Kids Act – Child Exploitation Material Civil and Criminal Actions)

Dear Chair Bartlett, Vice Chair Davis, and Members of the Judiciary Committee:

On behalf of Women of Color for Equal Justice (WOC4EJ), we write in strong support of House Bill 924, the *Safe Kids Act*. Women of Color for Equal Justice is a national legal advocacy organization committed to advancing justice, civil accountability, and equal protection for vulnerable communities. A central pillar of our mission is protecting children—particularly girls of color—from sexual exploitation, trafficking pipelines, and digitally facilitated abuse.

HB 924 modernizes Maryland law in four critical ways:

1. **Creates a civil cause of action** against online platforms that knowingly and intentionally issue, distribute, or develop unlawful child exploitation material;
2. **Authorizes Attorney General enforcement** for injunctive and equitable relief;
3. **Clarifies that AI-generated imagery may constitute prohibited material** when indistinguishable from an actual and identifiable minor; and
4. **Expands statutory protection to minors under 18**, aligning Maryland law with contemporary trafficking and exploitation standards.

The Digital Exploitation Economy

Child sexual exploitation is no longer limited to physical trafficking networks. It is increasingly:

- AI-generated,
- Platform-amplified,
- Monetized through advertising and algorithmic engagement, and
- Distributed at scale.



HB 924 recognizes that unlawful child exploitation material is not passive speech—it is commodified abuse. Images are traded, manipulated, and weaponized against children. The bill’s definition of “unlawful child exploitation material” appropriately includes child pornography, obscene material involving a minor, and anatomically accurate exploitation devices or images designed for sexual acts

By addressing emerging AI technologies explicitly, the bill closes gaps that offenders increasingly exploit.

Why the Civil Remedy Matters

HB 924 authorizes a parent or guardian of a minor depicted in or exposed to unlawful exploitation material to seek:

- Nominal damages
- Actual damages
- Punitive damages
- Attorney’s fees and expert costs

This civil pathway is essential. Criminal prosecution often:

- Occurs years after harm,
- Focuses on the individual perpetrator rather than platform facilitation,
- Does not compensate survivors.

By creating independent civil liability without requiring a prior criminal conviction, HB 924 restores agency to families and deters platforms from knowingly profiting from exploitative content.

Joint and several liability provisions further prevent bad actors from escaping accountability through corporate structuring.

AI and the “Indistinguishable Minor” Standard

HB 924’s amendment to Criminal Law § 11-208 appropriately defines “computer-generated image” to include AI-created imagery and clarifies that images “indistinguishable from an actual and identifiable minor” may qualify. This is constitutionally significant.

Courts have long recognized that child exploitation material involving real minors is unprotected speech. When AI technology produces images indistinguishable from actual minors, the harm is not theoretical:

- It fuels demand for exploitation,
- It can appropriate the likeness of real children,
- It undermines enforcement capacity.



By preserving the exclusion for drawings, cartoons, sculptures, and paintings, the bill avoids overbreadth concerns and remains narrowly tailored.

Alignment with WOC4EJ’s Mission

Communities of color—particularly Black and Latina girls—are disproportionately represented in trafficking and online grooming statistics. Digital exploitation often serves as a precursor to physical trafficking.

HB 924 advances:

- Equal protection under law,
- Platform accountability,
- Survivor-centered remedies,
- Modernized enforcement tools.

The bill’s carve-out for passive internet service providers that merely transmit or store content and do not create or develop it further demonstrates thoughtful tailoring and limits undue burden on neutral infrastructure actors.

Constitutional Soundness

HB 924 is defensible under existing First Amendment jurisprudence because:

- It targets unlawful exploitation involving minors,
- It requires knowing and intentional conduct,
- It preserves affirmative defenses,
- It avoids criminalizing lawful expressive content.

The bill does not regulate protected adult speech; it addresses a well-established category of unprotected material involving minors.

Recommended Technical Enhancements

While WOC4EJ strongly supports HB 924 as drafted, we respectfully offer three clarifying recommendations to further fortify the statute against constitutional challenge in the event recommendations:

1. **Define “knowingly and intentionally” with specificity**, potentially incorporating a “actual knowledge or willful blindness” standard to prevent platforms from evading liability through algorithmic shielding.
2. **Include a severability clause** to protect the civil remedy framework if any specific subsection is challenged.
3. **Clarify that civil liability applies only where the platform materially contributed to creation or development**, reinforcing consistency with federal intermediary liability doctrines and reducing preemption risk.

These recommendations strengthen durability without altering the bill’s core purpose.



Conclusion

HB 924 represents necessary modernization of Maryland’s legal framework to confront:

- AI-generated exploitation,
- Platform-facilitated abuse,
- Survivor access to civil remedies,
- Accountability in the digital marketplace.

Women of Color for Equal Justice respectfully urges the Judiciary Committee to issue a favorable report on House Bill 924.

Protecting children from exploitation—whether physical or digitally manufactured—is not partisan. It is a constitutional, moral, and public safety imperative.

Respectfully submitted,

/s/ Jo Saint-George

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