



## MAINE ASSOCIATION OF CRIMINAL DEFENSE LAWYERS

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November 11, 2025

Senator Anne Carney - Chair  
Representative Any Kuhn - Chair  
Committee on Judiciary  
100 State House Station Room 438  
Augusta, ME 04330

RE: LD 524-- An Act to Protect Children from Technology-facilitated Sexual Abuse

Dear Senator Carney, Representative Kuhn, and Members of the Judiciary Committee:

While we share the Legislature's commitment to protecting children from exploitation and abuse, the proposed amendment to LD 524 raises serious constitutional, evidentiary, and policy concerns. As written, it threatens to criminalize innocent conduct, expand penalties disproportionately, and erode due process under Maine law. We urge the Committee to reject LD 524.

LD 524 dramatically broadens the scope of criminal liability by redefining "child sexual abuse material" to include computer-generated or AI-created images that "appear to depict" a minor. This definition does not require that any real child be involved or even identifiable.

Such a provision risks violating First Amendment protections by encompassing lawful, non-obscene, or artistic works that do not exploit an actual child. The U.S. Supreme Court in *Ashcroft v. Free Speech Coalition*, 535 U.S. 234 (2002), struck down nearly identical language in the federal Child Pornography Prevention Act because it criminalized "virtual" depictions that did not involve real minors. Maine's proposal suffers from the same constitutional infirmity.

The terms "appear to depict," "obscene material," and "generative AI or machine learning" are vague and undefined in practice, creating uncertainty for defendants, prosecutors, and courts. Ambiguity in criminal statutes invites arbitrary enforcement, chilling protected expression in art, education, and digital innovation.

The amendment allows juries to infer the age or identity of a person “who appears to be depicted” based solely on an image’s content or expert opinion. This standard effectively reverses the burden of proof, permitting conviction on speculation rather than concrete evidence.

In cases involving AI-generated imagery, no reliable method currently exists to determine whether a digital image depicts a real child or a synthetic likeness. Criminal convictions based on probabilistic inferences risk punishing innocent persons who possess or create computer-generated material without any unlawful intent or knowledge.

Maine law already criminalizes the creation, possession, and dissemination of child sexual abuse material involving real minors under 17-A M.R.S. §§ 282–284. Federal and state agencies already possess robust tools to prosecute offenders. This bill adds sweeping new categories of offense without evidence that such expansion is necessary, enforceable, or constitutionally sound.

LD 524, as amended, is well-intentioned but dangerously overbroad. It risks criminalizing virtual content unconnected to actual harm, undermines constitutional rights, and imposes rigid penalties inconsistent with Maine’s justice values. Protecting children from abuse is essential—but we must do so without sacrificing due process or free expression.

For the reasons stated above, MACDL urges this committee to vote ought not to pass.

Sincerely,

/s/

Jeremy Pratt, Esq.  
President, MACDL