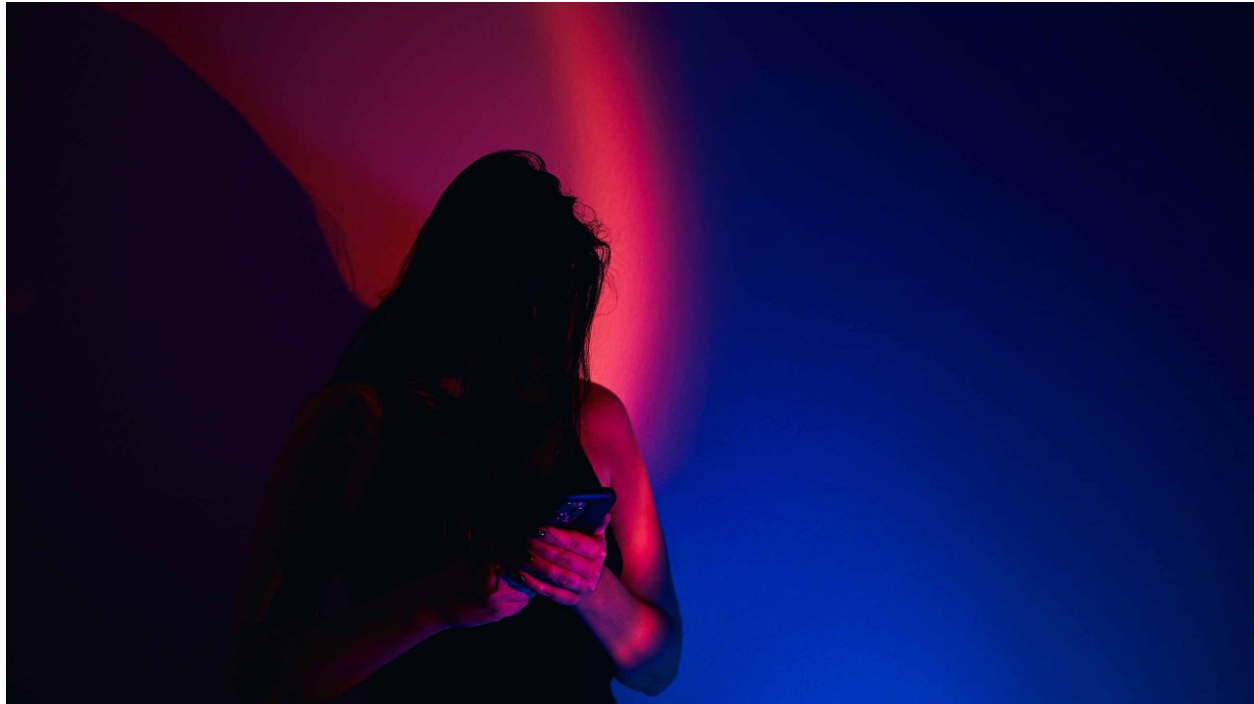


When the Image Is Fake but the Harm Is Real: Children's Rights in the Age of AI-Generated Sexual Exploitation

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Summary

- There is an exponential increase in generated exploitative AI imagery, underscoring how rapidly generative AI is colliding with existing child protection laws in the United States.
- The recent case illustrates a broader and deeply troubling trend: the rapid proliferation of AI-generated child sexual abuse material and the growing difficulty legal systems face in responding to synthetic forms of exploitation that existing laws were never designed to address.

In April 2026, federal prosecutors in Ohio announced what is believed to be [the first conviction under the 2025 Take It Down Act after a man used artificial intelligence \(AI\)](#)

[tools to create and distribute sexually explicit synthetic imagery involving both minors and former partners](#). According to the U.S. Department of Justice, the defendant generated exploitative AI imagery depicting minor boys engaged in graphic sex acts, underscoring how rapidly generative AI is colliding with existing child protection laws in the United States.

This case illustrates a broader and deeply troubling trend: the rapid proliferation of AI-generated child sexual abuse material (CSAM) and the growing difficulty legal systems face in responding to synthetic forms of exploitation that existing laws were never designed to address.

The Rapid Rise of AI-Generated CSAM

The scale of AI-generated CSAM has expanded with alarming speed. The National Center for Missing and Exploited Children has reported an explosive rise in AI-generated CSAM, [with reports to its CyberTipline increasing from roughly 4,700 in 2023 to well over 400,000 in the first half of 2025 alone](#).

Generative AI has radically transformed the production of sexually exploitative imagery involving minors. What once required advanced technical skills can now be accomplished in seconds using publicly available [“nudify” applications, deepfake generators, and image synthesis tools](#). These systems create entirely synthetic children, manipulate real photographs into explicit content, or generate realistic abuse imagery using datasets scraped from social media and online platforms. Increasingly, minors themselves are becoming targets, and sometimes perpetrators, of this technology.

Against this backdrop, [law enforcement agencies have warned that generative AI is accelerating both the volume and accessibility](#) to exploitative material in ways that threaten to overwhelm existing investigative systems.

For children’s rights practitioners, this is no longer a niche technology issue. AI-generated CSAM now intersects juvenile justice, family law, school discipline, cyberbullying, victim advocacy, online safety, as well as constitutional law. To that end, understanding where the law currently stands and where it is likely headed is becoming increasingly important for practitioners representing children, as well as for youth involved in these cases.

The Federal Framework: Applying Old Statutes to New Technology

At the federal level, prosecutors have primarily relied on existing child pornography statutes to pursue AI-generated CSAM cases. The principal statutory framework remains [18 U.S.C §§ 2251–2252A](#), which criminalize the “the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography.” Importantly, federal law does not prohibit only imagery involving actual minors. To

address the issue, Congress amended federal statutes following the Supreme Court's decision in [Ashcroft v. Free Speech Coalition](#), which invalidated portions of the Child Pornography Prevention Act that prohibited purely virtual child pornography not involving real children. Writing for the majority, Justice Anthony Kennedy emphasized that the government could not prohibit speech merely because it "records no crime and creates no victims by its production." The decision remains foundational to the modern constitutional debate surrounding AI-generated CSAM because the Court distinguished between material documenting the abuse of actual children and wholly fictional or virtual depictions that did not involve real minors. In response, Congress enacted the [PROTECT Act of 2003](#), narrowing federal law to prohibit obscene virtual depictions and computer-generated images that are "indistinguishable" from actual minors.

More recently, Congress has again attempted to modernize the federal response through the [TAKE IT DOWN Act](#), enacted amid mounting concern over AI-generated sexual imagery and deepfake exploitation. Although broader than traditional CSAM legislation, the law reflects a growing recognition that generative AI has fundamentally altered the scale, speed, and accessibility of synthetic sexual abuse content online. Among other things, the statute creates new federal obligations for online platforms to remove nonconsensual intimate imagery, including AI-generated content involving minors, following valid notice requests. The legislation also signals an important shift toward platform accountability, recognizing that the harms associated with synthetic abuse imagery extend beyond initial creation and into its rapid dissemination across digital platforms.

For years, the broader federal framework appeared relatively stable. However, generative AI has now complicated the doctrinal distinctions underlying that framework. Modern AI-generated abuse material is rarely entirely detached from reality. Many systems are trained on enormous datasets containing real human photographs. Increasingly, offenders are using identifiable images of actual children harvested from social media, school websites, or family photographs, and transforming them into explicit synthetic content. Prosecutors have argued that these cases fit comfortably within existing statutory prohibitions because the resulting images either depict identifiable minors or are virtually indistinguishable from actual abuse imagery.

Federal enforcement efforts have intensified accordingly. [In 2024, federal authorities arrested Army soldier Seth Herrera](#) in Alaska for allegedly using AI to generate sexually explicit materials of children he knew personally, while also possessing thousands of AI-generated CSAM files.

In another widely publicized case, child psychologist [Dr. Christopher Tatum received a 40-year sentence in North Carolina after using AI "nudify" technology](#) to create explicit imagery from otherwise innocent photographs of children.

Federal prosecutors have also begun targeting larger synthetic image operations. [In February 2025, a Florida man pleaded guilty to producing and distributing thousands of](#)

[AI-generated abuse images](#) involving children, including depictions based on identifiable minors.

These prosecutions reflect a growing consensus within federal law enforcement that AI-generated exploitation is not a separate category of harm; rather, it is an extension of broader child exploitation offenses.

Federal agencies have simultaneously issued increasingly urgent warnings. [The FBI's Internet Crime Complaint Center \(IC3\)](#) has warned the public that child sexual abuse material (CSAM) created with content manipulation technologies, to include generative AI, is illegal. [The Department of Justice has likewise emphasized that the use of AI tools](#) does not insulate offenders from criminal liability.

Despite this progress on the federal level, substantial uncertainties remain unresolved. Courts continue to wrestle with the constitutional boundaries of criminalizing wholly synthetic imagery, particularly where no identifiable child exists. Those unresolved tensions increasingly shape how states are approaching the issue.

The Uneven Modernization of States Laws

While federal law provides the overarching enforcement framework, much of the most aggressive legislative activity has occurred at the state level.

Research by [ENOUGH ABUSE](#) found that, as of August 2025, 45 states had enacted laws criminalizing AI-generated, computer-generated, or digitally manipulated CSAM, while only Alaska, Colorado, Massachusetts, Ohio, Vermont, and Washington, D.C., had yet to explicitly incorporate synthetic imagery into their CSAM statutes. More than half of those laws were enacted during 2024 and 2025 alone.

Some states have emerged as particularly aggressive in attempting to close perceived statutory gaps. For example, [California enacted Assembly Bill 1831](#), expanding existing child pornography laws to prohibit the creation, possession, and distribution of digitally altered or AI-generated explicit depictions involving minors, including nude images generated from otherwise innocent photographs.

Texas has adopted one of the broadest approaches through [Senate Bill 20, the Stopping AI-Generated Child Pornography Act](#), which criminalizes obscene visual material “appearing to depict a child,” including wholly synthetic and AI-generated imagery, even where no identifiable minor exists. Texas lawmakers [have also moved toward treating images used to train AI systems capable of generating CSAM as unlawful material themselves](#).

[Pennsylvania has similarly expanded its statutory framework to explicitly encompass artificially generated child sexual abuse material and forged digital likenesses](#), while also modernizing statutory terminology away from “child pornography.”

Other states, including [New York](#), [Florida](#), and [Virginia](#), have increasingly modernized child exploitation laws to address AI “nudification” technology, synthetic sexual imagery, and digitally manipulated abuse content. [Virginia law, for example, explicitly defines computer-generated depictions simulating minors engaged in sexual conduct as equivalent to traditional CSAM for criminal liability purposes.](#)

Together, these reforms reflect a broader shift away from treating AI-generated exploitation as a legal anomaly and toward recognizing synthetic abuse imagery as a central and rapidly expanding form of child exploitation in the digital age.

While these legislative developments represent an important step forward, significant gaps persist, leaving a patchwork of inconsistent legal standards across the country. Definitions of “child pornography,” “synthetic media,” and “digitally altered imagery” vary widely between jurisdictions, as do penalties and evidentiary requirements, particularly regarding whether prosecutors must prove the involvement of a real child.

That fragmentation becomes especially problematic because AI-generated abuse imagery rarely remains confined to a single state. Images can be created in one jurisdiction, distributed through platforms or servers in another, and harm children across multiple states with entirely different legal frameworks.

For children’s rights practitioners, these inconsistencies create substantial practical challenges, including overlapping state and federal jurisdiction, conflicting reporting obligations, uncertainty surrounding civil remedies, and inconsistent approaches by schools and law enforcement.

The Complexities of Prosecuting and Defending Synthetic CSAM Cases

AI-generated CSAM cases present unique challenges for prosecutors, defense attorneys, courts, and children’s advocates alike, particularly when it comes to evidentiary authenticity. As synthetic imagery becomes increasingly realistic, investigators and courts are confronting difficult questions about [authentication, attribution, and whether a “real” child must be identifiable](#) for criminal liability to attach. [Prosecutors may struggle to prove whether imagery depicts actual abuse](#), while defense attorneys are increasingly able to argue that explicit material was artificially generated rather than real.

At the same time, law enforcement agencies warn that the sheer volume of AI-generated content is overwhelming existing investigative systems and making it harder to identify actual victims hidden among synthetic imagery. These challenges are compounded by inconsistent state laws and evidentiary standards, creating growing uncertainty for prosecutors, defense counsel, and children’s rights practitioners alike.

As a result, [prosecutions increasingly rely on expert testimony involving metadata analysis, AI detection tools, image provenance, and advanced digital forensic techniques](#). Prosecutors may need to establish how a particular image was generated, whether source material involved actual minors, or whether synthetic imagery is sufficiently “indistinguishable” from real abuse imagery to satisfy federal statutory standards. Defense attorneys, meanwhile, have begun challenging the reliability of AI detection technologies and forensic conclusions regarding authenticity. Some have argued that entirely fictional synthetic depictions may remain constitutionally protected under the First Amendment framework articulated in *Ashcroft v. Free Speech Coalition*, while others contest whether prosecutors can definitively prove the existence of a real child victim at all.

Moreover, jurisdictional fragmentation further complicates enforcement. Because AI-generated imagery is created and distributed online, investigations frequently span multiple states and, in some cases, multiple countries. Law enforcement agencies may confront inconsistent statutory frameworks, varying reporting obligations, and conflicting evidentiary standards across jurisdictions. Schools, families, and child advocates likewise face uncertainty regarding which authorities should investigate, what remedies are available, and how existing child protection systems should respond to synthetic forms of abuse.

Against this backdrop, the rapid volume of production presents another major challenge. A single user can now generate thousands of exploitative images within hours, using commercially available tools. As noted above, law enforcement agencies have repeatedly warned that the scale of AI-generated abuse imagery threatens to overwhelm existing investigative systems.

Civil Liability and Platform Accountability

The future of AI-generated CSAM litigation will likely extend far beyond criminal prosecution.

Legislators and litigants are increasingly exploring civil liability models targeting not only perpetrators but also technology companies and platform providers. One of the most significant recent proposals is the [DEFIANCE Act](#), introduced in Congress to expand civil remedies for victims of nonconsensual AI-generated sexual imagery, including deepfake abuse involving minors.

At the same time, plaintiffs have begun testing theories of platform accountability directly against AI developers. [In March 2026, three Tennessee teenagers filed a proposed class action lawsuit against xAI in federal court](#), alleging that the company’s Grok chatbot was used to generate sexually explicit deepfake images of minors using photographs taken from social media and school-related sources. The plaintiffs claim the company failed to implement adequate safeguards to prevent the creation of AI-generated CSAM. While the litigation remains in its early stages, the case may become a significant test of the legal responsibilities and potential liability of generative AI

companies whose tools are allegedly used to create synthetic exploitation imagery involving children.

These developments intersect with broader debates surrounding section 230 immunity, negligent platform design, foreseeability of harm, and algorithmic accountability. Courts may increasingly face questions regarding whether AI companies should be treated as passive intermediaries or active participants in creating harmful outputs. That debate is likely to shape the next phase of child protection law in the AI era.

What Children's Rights Practitioners Should Watch Closely

For practitioners working with children and families, several developments warrant close attention moving forward.

First, additional [state legislation is almost certain](#). More jurisdictions will continue expanding statutes governing AI-generated CSAM, nudification applications, and synthetic exploitation involving minors. Attorneys should monitor not only criminal reforms but also emerging civil remedies, school reporting obligations, and mandatory takedown provisions.

Second, [evidentiary disputes will become increasingly central](#). [Lawyers across practice areas will need greater familiarity with AI image detection tools](#), metadata analysis, digital authentication standards, and expert witness challenges.

Third, juvenile justice systems will likely face mounting pressure to develop more nuanced responses to peer-generated deepfake abuse. Traditional punitive frameworks may prove poorly suited for [adolescent-created exploitation](#) involving rapidly evolving technology.

Fourth, [prevention efforts will likely become more important than purely reactive enforcement](#). Schools, parents, and youth organizations are increasingly confronting a reality in which sophisticated exploitative tools are accessible to minors with little technical expertise.

Finally, practitioners should expect continued constitutional litigation surrounding synthetic imagery and First Amendment protections. Courts have not yet fully resolved how older precedents apply to modern generative AI systems capable of producing photorealistic abuse imagery at massive scale.

Looking Ahead

Lawmakers are increasingly attempting to respond to this rapidly evolving area of law, but the legal landscape remains uneven and reactive. Federal prosecutors are stretching older statutes to cover emerging technologies, states are modernizing their

laws at different speeds, and courts continue grappling with unresolved constitutional, evidentiary, and jurisdictional questions.

Children's rights practitioners will require far more than familiarity with emerging statutes. They will require fluency in digital evidence, platform governance, school disciplinary frameworks, and Title IX obligations, as well as a concrete understanding of the rapidly shifting intersection between technology and child protection. Attorneys representing children and families will likely find themselves navigating not only criminal investigations but also civil remedies, content removal processes, cross-jurisdictional enforcement issues, and the long-term psychological harms caused by synthetic exploitation.

As generative AI continues to blur the boundaries between virtual and real-world abuse, children's advocates may increasingly play a critical role in shaping legal frameworks that prioritize harm prevention, victim protection, and technological accountability before the law falls permanently behind the realities children already face online.