

## LEGISLATIVE TESTIMONY

Bill: [HB0671](#) - Criminal Law - Display of Obscene Material to Minors - Prohibition

Sponsored by: Delegates [Grammer](#), [Arikan](#), [Chisholm](#), [Fisher](#), [Kipke](#), [M. Morgan](#), [Nawrocki](#), and [Szeliga](#)

Hearing: In the House - 2/14 at 1:00 p.m.

Submitted by: [Tara Thompson](#)

Position: [FAVORABLE](#)

I am submitting this testimony in FAVOR of HB0671 on behalf of myself, as an educational advocate and as a mother of 3 children in the Baltimore County education system.

Below is just one example of a book in our Maryland public schools that do not belong in the hands of minors. **The forward to the book says, “To: Whomever needs it, whatever your age”**

This book contains several passages that are highly concerning and instructs children to consume porn and explore sexual kinks and fantasies. *“A great place to research fantasies and kinks safely is the internet. There are tons of people and communities out there who share your interests and have all kinds of advice”*. PG 164-165. Planned Parenthood is listed in the back of the book as a go-to site.

There are hundreds of copies of this book throughout MD public schools.

‘Let’s Talk About It’

by: Erika Moen and Matthew Nolan

<https://booklooks.org/data/files/Book%20Looks%20Reports/L/Lets%20Talk%20About%20It.pdf>

### PORNOGRAPHY LAW:

- Current MARYLAND LAW that needs to be updated to include books in schools that contain obscene content. Books like this one are NOT solely for educational purposes and are being marketed that way to BEAT THE LAW. ALL of the content matters, not just some.
  - <https://mgaleg.maryland.gov/mgaweb/Legislation/Details/SB0226>
  - SB 226 <https://mgaleg.maryland.gov/2023RS/bills/sb/sb0226T.pdf>

- CH 259 -  
[https://mgaleg.maryland.gov/2023RS/chapters\\_noIn/Ch\\_759\\_sb0226T.pdf](https://mgaleg.maryland.gov/2023RS/chapters_noIn/Ch_759_sb0226T.pdf)
- <https://law.justia.com/codes/maryland/2010/criminal-law/title-11/subtitle-2/11-207/>

MD Law: (For library use of websites for porn) - 2001

<https://law.justia.com/codes/maryland/2022/education/division-iv/title-23/subtitle-5/section-23-506-1/>

FEDERAL LAW - which prohibits this

Miller Test -

<https://www.justice.gov/criminal-ceos/citizens-guide-us-federal-law-obscenity>

<https://www.justice.gov/criminal-ceos/citizens-guide-us-federal-law-child-pornography>

In addition, Section 1466A of Title 18, United State Code, makes it illegal for any person to knowingly produce, distribute, receive, or possess with intent to transfer or distribute visual representations, such as drawings, cartoons, or paintings that appear to depict minors engaged in sexually explicit conduct and are deemed obscene. This statute offers an alternative 2-pronged test for obscenity with a lower threshold than the *Miller* test. The matter involving minors can be deemed obscene if it (i) depicts an image that is, or appears to be a minor engaged in graphic bestiality, sadistic or masochistic abuse, or sexual intercourse and (ii) if the image lacks serious literary, artistic, political, or scientific value. A first time offender convicted under this statute faces fines and at least 5 years to a maximum of 20 years in prison.

There are also laws to protect children from obscene or harmful material on the Internet. For one, federal law prohibits the use of misleading domain names, words, or digital images on the Internet with intent to deceive a minor into viewing harmful or obscene material (See 18 U.S.C. §§ 2252B, 2252C). It is illegal for an individual to knowingly use interactive computer services to display obscenity in a manner that makes it available to a minor less than 18 years of age (See 47 U.S.C. § 223(d) –Communications Decency Act of 1996, as amended by the PROTECT Act of 2003). It is also illegal to knowingly make a commercial communication via the Internet that includes obscenity and is available to any minor less than 17 years of age (See 47 U.S.C. § 231 –Child Online Protection Act of 1998).

The standard of what is harmful to minors may differ from the standard applied to adults. Harmful materials for minors include any communication consisting of nudity, sex or excretion that (i) appeals to the prurient interest of minors, (ii) is patently

offensive to prevailing standards in the adult community with respect to what is suitable material for minors, (iii) and lacks serious literary, artistic, political, or scientific value for minors.

In addition to facing imprisonment and fines, convicted offenders of federal obscenity laws involving minors may also be required to register as sex offenders. Furthermore, in some circumstances, obscenity violations involving minors may also be subject to prosecution under federal child pornography laws, which yield severe statutory penalties (For more information, see [Citizen's Guide to U.S. Federal Child Pornography Laws](#)).

### Obscenity Involving Minors

Federal statutes specifically prohibit obscenity involving minors, and convicted offenders generally face harsher statutory penalties than if the offense involved only adults.

Section 1470 of Title 18, United States Code, prohibits any individual from knowingly transferring or attempting to transfer obscene matter using the U.S. mail or any means or facility of interstate or foreign commerce to a minor under 16 years of age. Convicted offenders face fines and imprisonment for up to 10 years.

In addition, Section 1466A of Title 18, United State Code, makes it illegal for any person to knowingly produce, distribute, receive, or possess with intent to transfer or distribute visual representations, such as drawings, cartoons, or paintings that appear to depict minors engaged in sexually explicit conduct and are deemed obscene. This statute offers an alternative 2-pronged test for obscenity with a lower threshold than the *Miller* test. The matter involving minors can be deemed obscene if it (i) depicts an image that is, or appears to be a minor engaged in graphic bestiality, sadistic or masochistic abuse, or sexual intercourse and (ii) if the image lacks serious literary, artistic, political, or scientific value. A first time offender convicted under this statute faces fines and at least 5 years to a maximum of 20 years in prison.

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**I hope that you vote FAVORABLE to close the loophole in the law and stop allowing this to occur. Actions speak louder than words.**

Tara Thompson