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Testimony in **Support** of

SB0221 – Criminal Law – Child Pornography – Prohibitions and Penalties

Dear Chairman, Vice Chairman, and Members of the Committee:

I am writing to show my strong support for Senate Bill 0221 on behalf of State's Attorney Tara Jackson and the Maryland State's Attorneys' Association, and to urge a favorable report. Passage of Senate Bill 0221 is an efficient prohibition to the possession of more than 100 images of certain child pornography, that offers a fair and just penalty in consideration for the severity of the criminal act. Passage of Senate Bill 0221 would serve as an appropriate and common-sense prohibition that falls within the already existing framework of Maryland law.

I serve as an Assistant State's Attorney in the Special Victims Unit at the State's Attorney's Office for Prince George's County. I carry an extensive caseload of cases involving child sexual abuse materials, including crimes of possession, distribution and production of child pornography. I work alongside the Internet Crimes Against Children Task Force, comprised of local, state, and federal law enforcement agencies, as well as state and federal prosecutors from across the country.

Under the current version of Maryland Criminal Law Title 11, Subtitle 2, Possession of visual representation of child under 16 engaged in certain sexual acts (CR 11-208), commonly referred to as Possession of Child Pornography, is only classified as misdemeanor and on conviction is subject to imprisonment not exceeding five (5) years or a fine not exceeding \$2,500 or both. Maryland Criminal Law 11-208 does not currently contemplate an enhanced penalty for those in possession of excessive amounts of child sexual abuse materials. Maryland CR 11-208 does however provide an enhanced penalty for those who violate this statute, having been previously convicted under this same subsection; the punishment being enhanced to a felony and on conviction subject to imprisonment not exceeding 10 years or a fine not exceeding \$10,000 or both.

Senate Bill 0221 is a much needed prohibition and enhanced penalty to fill a hole within Maryland Criminal Law as it pertains to the penalty for possession of Child Pornography. As the law currently stands, an individual in possession of one singular image of child pornography is guilty of a misdemeanor and subject to imprisonment of five (5) years. Furthermore, under the law currently in effect, an individual in possession of 1,146 images of child pornography, containing prepubescent children, primarily between the ages of one (1) to six (6) years old, is also guilty of a misdemeanor and subject to imprisonment of five (5) years. This example is based on a real case out of Prince George's County where an individual was in possession of 1,146 images of child pornography, all of which qualify under the definition described under Senate Bill 0221, depicting a child under the age of 13.

As the law currently stands, possession of 1,146 images of prepubescent children is treated equally as if that person only possessed one (1) image of child sexual abuse materials. This update to the current law is an acknowledgement that Maryland cares about each and every child depicted in these child sexual abuse materials. Every possession of an image and video means the sexual abuse of a child will remain memorialized and continue to circulate the internet in perpetuity, traded and collected by individuals with a sexual interest in young children.

Senate Bill 0221 contemplates the same enhanced penalty as already established for those convicted of a subsequent possession of child pornography under Maryland CR 11-208; the penalty being guilty of a felony and imprisonment not exceeding 10 years. Therefore, Senate Bill 0221 falls within the already existing framework of Maryland law. Furthermore, Senate Bill 0221 allows for prosecutorial and judicial efficiency by allowing the prosecutor to file one count of possession of over 100 images of certain child pornography depicting a child under the age of 13, instead of filing one count of possession of child pornography for each individual image or video file, often resulting in a reduction of the actual number of images the individual was truly in possession of.

Senate Bill 0221 is a reasoned approach to bringing a fair and just penalty to the those in possession of excessive amounts of certain child pornography. Senate Bill 0221 modernizes the law to reflect the State of Maryland's abhorrence to and unwillingness to accept possession of child pornography. This bill allows the State of Maryland to hold responsible those in possession of more than 100 images of certain child pornography, allowing for efficiency in the judicial system, and a just balance of penalty to the crime committed. For the foregoing reasons, I respectfully urge a favorable report on SB 0221.

Sincerely,



Nina Newman
Assistant State's Attorney, Special Victims Unit
State's Attorney's Office for Prince George's County