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**By: Delegates T. Murphy, Grosfeld, Turner, and Perry**

Introduced and read first time: January 25, 1996

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Child Pornography - Computers**

3 FOR the purpose of prohibiting a person from using a computer to compile, enter, print,  
4 publish, reproduce, buy, sell, exchange, transmit, disseminate, or advertise certain  
5 data relating to minors for the purpose of facilitating, encouraging, offering, or  
6 soliciting certain sexual conduct of or with any minor by means of a computer;  
7 prohibiting certain computer generated depictions of certain conduct of or with a  
8 minor; authorizing the Department of State Police to exercise certain police powers;  
9 and generally relating to computers and child pornography.

10 BY repealing and reenacting, with amendments,  
11 Article 27 - Crimes and Punishments  
12 Section 419A  
13 Annotated Code of Maryland  
14 (1992 Replacement Volume and 1995 Supplement)

15 BY repealing and reenacting, with amendments,  
16 Article 88B - Department of State Police  
17 Section 4(c)  
18 Annotated Code of Maryland  
19 (1995 Replacement Volume)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
21 MARYLAND, That the Laws of Maryland read as follows:

22 **Article 27 - Crimes and Punishments**

23 419A.

24 (a) In this section "minor" means an individual under 18 years of age.

25 (b) Every person who solicits, causes, induces, or knowingly permits a minor to  
26 engage as a subject in the production of any obscene matter or any visual representation  
27 or performance that depicts a minor engaged as a subject in sexual conduct as defined in  
28 § 416A(d) of this article, is subject to the penalty provided in subsection [(e)] (F) of this  
29 section.

1 (c) Every person who photographs [or], films, OR BY MEANS OF COMPUTER  
2 DEPICTS a minor engaging in an obscene act or engaging in sexual conduct as defined in  
3 § 416A of this article is subject to the penalty provided in subsection[(e)] (F) of this  
4 section.

5 (d) Every person who knowingly promotes, distributes, or possesses with intent to  
6 distribute any matter or other visual representation or performance that depicts a minor  
7 engaged as a subject in sexual conduct, as defined in § 416A of this article, is subject to  
8 the penalty provided in subsection [(e)] (F) of this section.

9 (E) EVERY PERSON WHO, BY MEANS OF COMPUTER, KNOWINGLY COMPILES,  
10 ENTERS, TRANSMITS, MAKES, PRINTS, PUBLISHES, REPRODUCES, CAUSES, ALLOWS,  
11 BUYS, SELLS, RECEIVES, EXCHANGES, OR DISSEMINATES ANY NOTICE, STATEMENT,  
12 ADVERTISEMENT, OR MINOR'S NAME, TELEPHONE NUMBER, PLACE OF RESIDENCE,  
13 PHYSICAL CHARACTERISTICS, OR OTHER DESCRIPTIVE OR IDENTIFYING  
14 INFORMATION FOR THE PURPOSE OF ENGAGING, FACILITATING, ENCOURAGING,  
15 OFFERING, OR SOLICITING SEXUAL CONDUCT AS DEFINED IN § 416A OF THIS  
16 ARTICLE OF OR WITH ANY MINOR IS SUBJECT TO THE PENALTY PROVIDED IN  
17 SUBSECTION (F) OF THIS SECTION.

18 [(e)] (F) (1) Every person who violates the provisions of this section is guilty of  
19 a felony and upon conviction shall be fined not more than \$25,000 or imprisoned for 10  
20 years, or both in the discretion of the court.

21 (2) A person who is convicted of a subsequent violation of this section is  
22 subject to a fine not exceeding \$50,000 or imprisonment not exceeding 20 years, or both in  
23 the discretion of the court.

24 [(f)] (G) (1) In any action brought under this section, where the minor's  
25 identity is unknown or where the minor is outside the jurisdiction, the State's Attorney is  
26 not required to identify or produce testimony from the minor who is depicted in the  
27 obscene matter or in any visual representation or performance that depicts the minor  
28 engaged as a subject in sexual conduct as defined in § 416A of this article.

29 (2) The court or jury may determine whether an individual who is depicted  
30 in any obscene matter, or any visual representation or performance as the subject in  
31 sexual conduct as defined in § 416A of this article, was a minor by observation of the  
32 matter depicting the individual, oral testimony by a witness to the production of the  
33 matter, expert medical testimony, or any other method authorized by an applicable  
34 provision of law or rule of evidence.

35 **Article 88B - Department of State Police**

36 4.

37 (c) Police employees shall not act within the limits of any incorporated  
38 municipality which maintains a police force except: (1) when in pursuit of an offender or  
39 suspected offender; (2) when in search of an offender or suspected offender wanted for a  
40 crime committed outside of the limits of the municipality, or when interviewing or seeking  
41 to interview a witness or supposed witness to such a crime; (3) when a crime is committed  
42 in the presence of the police employee, the arrested party shall be immediately  
43 transferred to the custody of the local law enforcement agency; (4) when requested to act

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1 by the chief executive officer or the chief police officer of the municipality; (5) when  
2 ordered by the Governor to act within the municipality; (6) except in Baltimore City,  
3 when enforcing the motor vehicle laws of this State; (7) in Baltimore City, only when  
4 enforcing Title 23 (Vehicle Laws - Inspection of Used Vehicles and Warnings for  
5 Defective Equipment) of the Transportation Article; (8) in any building or place when  
6 ordered by the President of the Senate and the Speaker of the House of Delegates, or  
7 either of them, to guard the safety of legislators or the integrity of the legislative process;  
8 (9) to protect the safety of an elected State official; (10) in the municipalities of Somerset  
9 County; (11) WHEN ENFORCING ARTICLE 27, § 419A OF THE CODE; or [(11)] (12) (i) 1.  
10 when participating in a joint investigation with officials from any other State, federal, or  
11 local law enforcement agency at least one of which shall have local jurisdiction; 2. when  
12 rendering assistance to a police officer; 3. when acting at the request of a local police  
13 officer; or 4. when an emergency exists; and (ii) when acting in accordance with  
14 regulations adopted by the Secretary to implement this paragraph.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
16 October 1, 1996.