
By: ~~Senators Pica and Van Hollen~~ Van Hollen, Colburn, Forehand, Green, Haines, Hughes, Jimeno, Kelley, Middlebrooks, and Stone

Introduced and read first time: January 11, 1996

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: January 31, 1996

CHAPTER _____

1 AN ACT concerning

2 **Child Pornography - Computers**

3 FOR the purpose of expanding certain provisions of law relating to child pornography to
4 make them applicable to minors in a certain state of being and minors who are
5 engaged as a subject in sadomasochistic abuse; prohibiting a person from using a
6 computer to compile, enter, print, publish, reproduce, buy, sell, exchange, transmit,
7 disseminate, or advertise certain data relating to minors for the purpose of
8 facilitating, encouraging, offering, or soliciting certain sexual conduct or
9 sadomasochistic abuse of or with any minor by means of a computer; prohibiting
10 certain computer generated depictions of minors in a certain state of being or
11 certain conduct of or with a minor; and generally relating to computers and child
12 pornography.

13 BY repealing and reenacting, with amendments,
14 Article 27 - Crimes and Punishments
15 Section 419A
16 Annotated Code of Maryland
17 (1992 Replacement Volume and 1995 Supplement)

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

20 **Article 27 - Crimes and Punishments**

21 419A.

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

1 (b) Every person who solicits, causes, induces, or knowingly permits a minor to
 2 engage as a subject in the production of any obscene matter or any visual representation
 3 or performance that depicts a minor IN A STATE OF SEXUAL EXCITEMENT engaged as a
 4 subject in sexual conduct OR SADOMASOCHISTIC ABUSE as defined in [§ 416A(d)] §
 5 416A of this article[,] is subject to the penalty provided in subsection [(e)] (F) of this
 6 section.

7 (c) Every person who photographs [or], films, OR BY MEANS OF COMPUTER
 8 DEPICTS OR DESCRIBES a minor IN A STATE OF SEXUAL EXCITEMENT OR engaging in
 9 an obscene act or engaging in sexual conduct OR SADOMASOCHISTIC ABUSE as defined
 10 in § 416A of this article is subject to the penalty provided in subsection [(e)] (F) of this
 11 section.

12 (d) Every person who knowingly promotes, distributes, or possesses with intent to
 13 distribute any matter or other visual representation or performance that depicts a minor
 14 IN A STATE OF SEXUAL EXCITEMENT OR engaged as a subject in sexual conduct OR
 15 SADOMASOCHISTIC ABUSE, as defined in § 416A of this article, is subject to the penalty
 16 provided in subsection [(e)] (F) of this section.

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

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

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

32 [(f)] (G) (1) In any action brought under this section, where the minor's
 33 identity is unknown or where the minor is outside the jurisdiction, the State's Attorney is
 34 not required to identify or produce testimony from the minor who is depicted in the
 35 obscene matter or in any visual representation or performance that depicts the minor IN
 36 A STATE OF SEXUAL EXCITEMENT engaged as a subject in sexual conduct OR
 37 SADOMASOCHISTIC ABUSE as defined in § 416A of this article.

38 (2) The court or jury may determine whether an individual who is depicted
 39 in any obscene matter, or any visual representation or performance IN A STATE OF
 40 SEXUAL EXCITEMENT OR as the subject in sexual conduct OR SADOMASOCHISTIC
 41 ABUSE as defined in § 416A of this article, was a minor by observation of the matter
 42 depicting the individual, oral testimony by a witness to the production of the matter,
 43 expert medical testimony, or any other method authorized by an applicable provision of
 44 law or rule of evidence.

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