
By: **Delegates Vallario, Valderrama, and Boschert**
Introduced and read first time: February 9, 2000
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Child Pornography - Electronic Communication With a Minor**

3 FOR the purpose of prohibiting a person from using a computer to communicate with
4 a minor for the purpose of engaging in certain sexual conduct; providing for the
5 jurisdiction for prosecution of the crime; and generally relating to computers
6 and crimes against minors.

7 BY repealing and reenacting, with amendments,
8 Article 27 - Crimes and Punishments
9 Section 419A
10 Annotated Code of Maryland
11 (1996 Replacement Volume and 1999 Supplement)

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

14 **Article 27 - Crimes and Punishments**

15 419A.

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

17 (b) Every person who solicits, causes, induces, or knowingly permits a minor
18 to engage as a subject in the production of any obscene matter or any visual
19 representation or performance that depicts a minor engaged as a subject in sexual
20 conduct or sadomasochistic abuse as defined in § 416A of this article is subject to the
21 penalty provided in subsection [(f)] (G) of this section.

22 (c) Every person who photographs, films, or by means of computer depicts or
23 describes a minor engaging in an obscene act or engaging in sexual conduct or
24 sadomasochistic abuse as defined in § 416A of this article is subject to the penalty
25 provided in subsection [(f)] (G) of this section.

26 (d) Every person who knowingly promotes, distributes, or possesses with
27 intent to distribute any matter or other visual representation or performance that
28 depicts a minor engaged as a subject in sexual conduct or sadomasochistic abuse, as

1 defined in § 416A of this article, is subject to the penalty provided in subsection [(f)]
2 (G) of this section.

3 (e) Every person who, by means of computer, knowingly compiles, enters,
4 transmits, makes, prints, publishes, reproduces, causes, allows, buys, sells, receives,
5 exchanges, or disseminates any notice, statement, advertisement, or minor's name,
6 telephone number, place of residence, physical characteristics, or other descriptive or
7 identifying information for the purpose of engaging, facilitating, encouraging,
8 offering, or soliciting unlawful sexual conduct or sadomasochistic abuse as defined in
9 § 416A of this article of or with any minor is subject to the penalty provided in
10 subsection [(f)] (G) of this section.

11 (F) (1) EVERY PERSON WHO, BY MEANS OF COMPUTER, COMMUNICATES
12 WITH A MINOR OR SOMEONE BELIEVED TO BE A MINOR FOR THE PURPOSE OF
13 ENGAGING IN SEXUALLY EXPLICIT CONVERSATION TO SEDUCE, SOLICIT, LURE, OR
14 ENTICE A MINOR OR SOMEONE BELIEVED TO BE A MINOR TO ENGAGE IN ANY
15 SEXUAL CONDUCT, SEXUAL EXCITEMENT, OR SADOMASOCHISTIC ABUSE AS
16 DEFINED IN § 416A OF THIS ARTICLE IS SUBJECT TO THE PENALTY PROVIDED IN
17 SUBSECTION (G) OF THIS SECTION.

18 (2) ANY PERSON WHO MAY COMMIT THE CRIME IN THIS SECTION
19 MENTIONED MAY BE PROSECUTED, INDICTED, TRIED, AND CONVICTED IN ANY
20 COUNTY OR CITY IN OR THROUGH WHICH THE COMMUNICATION ORIGINATED OR
21 TERMINATED OR IN THE JURISDICTION WHERE ANY PERSON AS A RESULT OF THE
22 COMMUNICATION TRAVELED FOR THE PURPOSE OF THE FURTHERANCE OF THE
23 CRIME.

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

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

30 [(g)] (H) (1) In any action brought under this section, where the minor's
31 identity is unknown or where the minor is outside the jurisdiction, the State's
32 Attorney is not required to identify or produce testimony from the minor who is
33 depicted in the obscene matter or in any visual representation or performance that
34 depicts the minor engaged as a subject in sexual conduct or sadomasochistic abuse as
35 defined in § 416A of this article.

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

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2000.