

HOUSE BILL 202

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HB 584/00 - JUD

2001 Regular Session  
11r0003

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By: **Chairman, Judiciary Committee (Departmental - State Police) and  
Delegate Pitkin**

Introduced and read first time: January 22, 2001

Assigned to: Judiciary

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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 2000 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

1 depicts a minor engaged as a subject in sexual conduct or sadomasochistic abuse, as  
2 defined in § 416A of this article, is subject to the penalty provided in subsection [(f)]  
3 (G) of this section.

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

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

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

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

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

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

37 (2) The court or jury may determine whether an individual who is  
38 depicted in any obscene matter, or any visual representation or performance as the  
39 subject in sexual conduct or sadomasochistic abuse as defined in § 416A of this article,  
40 was a minor by observation of the matter depicting the individual, oral testimony by  
41 a witness to the production of the matter, expert medical testimony, or any other  
42 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, 2001.