

HOUSE BILL 99

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HB 202/01 - JUD

2002 Regular Session
2lr0022

(PRE-FILED)

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

Requested: October 19, 2001

Introduced and read first time: January 9, 2002

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes - Child Pornography - Electronic Communication with 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 activities; 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 - Criminal Law
9 Section 11-207
10 Annotated Code of Maryland
11 (As enacted by Chapter ____ (H.B. 11) of the Acts of the General Assembly of
12 2002)

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

15 **Article - Criminal Law**

16 11-207.

17 (a) A person may not:

18 (1) cause, induce, solicit, or knowingly allow a minor to engage as a
19 subject in the production of obscene matter or a visual representation or performance
20 that depicts a minor engaged as a subject in sadomasochistic abuse or sexual conduct;

21 (2) photograph or film a minor engaging in an obscene act,
22 sadomasochistic abuse, or sexual conduct;

23 (3) use a computer to depict or describe a minor engaging in an obscene
24 act, sadomasochistic abuse, or sexual conduct;

1 (4) knowingly promote, distribute or possess with the intent to distribute
2 any matter, visual representation, or performance that depicts a minor engaged as a
3 subject in sadomasochistic abuse or sexual conduct; [or]

4 (5) use a computer to knowingly compile, enter, transmit, make, print,
5 publish, reproduce, cause, allow, buy, sell, receive, exchange, or disseminate any
6 notice, statement, advertisement, or minor's name, telephone number, place of
7 residence, physical characteristics, or other descriptive or identifying information for
8 the purpose of engaging in, facilitating, encouraging, offering, or soliciting unlawful
9 sadomasochistic abuse or sexual conduct of or with a minor; OR

10 (6) BY MEANS OF COMPUTER, COMMUNICATE WITH A MINOR OR
11 SOMEONE BELIEVED TO BE A MINOR FOR THE PURPOSE OF ENGAGING IN SEXUALLY
12 EXPLICIT CONVERSATION TO SEDUCE, SOLICIT, LURE, OR ENTICE A MINOR OR
13 SOMEONE BELIEVED TO BE A MINOR TO ENGAGE IN UNLAWFUL SEXUAL CONDUCT,
14 SEXUAL EXCITEMENT, OR SADOMASOCHISTIC ABUSE.

15 (b) A person who violates this section is guilty of a felony and on conviction is
16 subject to:

17 (1) for a first violation, imprisonment for 10 years or a fine not exceeding
18 \$25,000 or both; and

19 (2) for each subsequent violation, imprisonment not exceeding 20 years
20 or a fine not exceeding \$50,000 or both.

21 (c) (1) (i) This paragraph applies only if the minor's identity is unknown
22 or the minor is outside the jurisdiction of the State.

23 (ii) In an action brought under this section, the State is not
24 required to identify or produce testimony from the minor who is depicted in the
25 obscene matter or in any visual representation or performance that depicts the minor
26 engaged as a subject in sadomasochistic abuse or sexual conduct.

27 (2) The trier of fact may determine whether an individual who is
28 depicted in an obscene matter, or any visual representation or performance as the
29 subject in sadomasochistic abuse or sexual conduct, was a minor by:

30 (i) observation of the matter depicting the individual;

31 (ii) oral testimony by a witness to the production of the matter,
32 representation, or performance;

33 (iii) expert medical testimony; or

34 (iv) any other method authorized by an applicable provision of law
35 or rule of evidence.

36 (D) A PERSON WHO VIOLATES SUBSECTION (A)(6) OF THIS SECTION MAY BE
37 PROSECUTED, INDICTED, TRIED, AND CONVICTED IN ANY COUNTY IN OR THROUGH

1 WHICH THE COMMUNICATION ORIGINATED OR TERMINATED OR IN THE COUNTY
2 WHERE ANY INDIVIDUAL TRAVELED AS A RESULT OF THE COMMUNICATION TO
3 FURTHER THE CRIME.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2002.