

HOUSE BILL 540

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2003 Regular Session
3r1813
CF 3r1812

By: **Delegates Zirkin and O'Donnell**
Introduced and read first time: February 6, 2003
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes - Child Pornography - Electronic Communication with Minor**

3 FOR the purpose of establishing the crime of using a computer, the Internet, or other
4 electronic communication to communicate in a certain manner with a minor or
5 someone believed to be a minor for the purpose of engaging in certain unlawful
6 sexual conduct; establishing certain penalties for the crime; providing for the
7 jurisdiction for prosecution of the crime; and generally relating to computers
8 and crimes against minors.

9 BY repealing and reenacting, with amendments,
10 Article - Criminal Law
11 Section 11-207
12 Annotated Code of Maryland
13 (2002 Volume)

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

16 **Article - Criminal Law**

17 11-207.

18 (a) A person may not:

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

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

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

1 (4) knowingly promote, distribute, or possess with the intent to
2 distribute any matter, visual representation, or performance that depicts a minor
3 engaged as a 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, THE INTERNET, OR OTHER ELECTRONIC
11 COMMUNICATION, COMMUNICATE WITH A MINOR OR SOMEONE BELIEVED BY THE
12 PERSON TO BE A MINOR FOR THE PURPOSE OF ENGAGING IN SEXUALLY EXPLICIT
13 CONVERSATION TO SEDUCE, SOLICIT, OR ENTICE, OR ATTEMPT TO SEDUCE, SOLICIT,
14 OR ENTICE A MINOR OR SOMEONE BELIEVED BY THE PERSON TO BE A MINOR TO
15 ENGAGE IN UNLAWFUL SEXUAL CONDUCT UNDER § 3-304, § 3-306, OR § 3-307 OF THIS
16 ARTICLE.

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

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

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

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

25 (ii) In an action brought under this section, the State is not
26 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 sadomasochistic abuse or sexual conduct.

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

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

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

35 (iii) expert medical testimony; or

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

1 (D) A PERSON WHO VIOLATES SUBSECTION (A)(6) OF THIS SECTION MAY BE
2 PROSECUTED, INDICTED, TRIED, AND CONVICTED IN ANY COUNTY IN OR THROUGH
3 WHICH THE COMMUNICATION ORIGINATED OR TERMINATED OR IN THE COUNTY
4 WHERE AN INDIVIDUAL TRAVELED AS A RESULT OF THE COMMUNICATION TO
5 FURTHER THE CRIME.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2003.