
By: **Senators Jimeno and Forehand**
Introduced and read first time: January 31, 2003
Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 24, 2003

CHAPTER _____

1 AN ACT concerning

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

3 FOR the purpose of establishing the crime of using a computer, telephone, the
4 Internet, or other electronic device or communication to communicate in a
5 certain manner with a minor or someone believed to be a minor ~~for the purpose~~
6 ~~of engaging in certain unlawful sexual conduct with the intent to engage in and~~
7 taking an overt act in pursuance of a violation of certain sexual offenses;
8 establishing certain penalties for the crime; providing for the jurisdiction for
9 prosecution of the crime; and generally relating to computers and ~~crimes~~ certain
10 sexual offenses against minors.

11 BY repealing and reenacting, with amendments,
12 Article - Criminal Law
13 Section 11-207
14 Annotated Code of Maryland
15 (2002 Volume)

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

18 **Article - Criminal Law**

19 11-207.

20 (a) A person may not:

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

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

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

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

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

17 (6) (I) BY MEANS OF COMPUTER, TELEPHONE, THE INTERNET, OR
18 ELECTRONIC DEVICE OR COMMUNICATION, COMMUNICATE WITH A MINOR OR
19 SOMEONE BELIEVED BY THE PERSON TO BE A MINOR FOR THE PURPOSE OF
20 ENGAGING IN SEXUALLY EXPLICIT CONVERSATION TO SEDUCE, SOLICIT, OR ENTICE,
21 OR ATTEMPT TO SEDUCE, SOLICIT, OR ENTICE, A MINOR OR SOMEONE BELIEVED BY
22 THE PERSON TO BE A MINOR TO ENGAGE IN UNLAWFUL SEXUAL CONDUCT UNDER
23 WITH THE INTENT TO ENGAGE IN A VIOLATION OF § 3-304, § 3-306, OR § 3-307 OF THIS
24 ARTICLE; AND

25 (II) TAKE AN OVERT ACT IN PURSUANCE OF A VIOLATION OF §
26 3-304, § 3-306, OR § 3-307 OF THIS ARTICLE.

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

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

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

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

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

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

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

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

7 (iii) expert medical testimony; or

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

10 (D) A PERSON WHO VIOLATES SUBSECTION (A)(6) OF THIS SECTION MAY BE
11 PROSECUTED, INDICTED, TRIED, AND CONVICTED IN ANY COUNTY IN ~~OR THROUGH~~
12 WHICH THE COMMUNICATION ORIGINATED OR TERMINATED OR IN THE COUNTY
13 WHERE AN INDIVIDUAL TRAVELED AS A RESULT OF THE COMMUNICATION TO
14 ~~FURTHER THE CRIME~~ IN PURSUANCE OF A VIOLATION OF § 3-304, § 3-306, OR § 3-307
15 OF THIS ARTICLE.

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