

HOUSE BILL 1053

E1

(0lr1766)

ENROLLED BILL

— *Judiciary/Judicial Proceedings* —

Introduced by **Delegates Simmons and Stifler**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Child Pornography – Matter Reflecting Belief That a Minor Is Depicted in a**
3 **Certain Manner**

4 FOR the purpose of prohibiting a person from knowingly promoting, advertising,
5 ~~presenting,~~ soliciting, distributing, or possessing with the intent to distribute
6 any matter, ~~purported-matter,~~ visual representation, or performance that
7 reflects the belief, or is intended to cause another to believe, that the matter
8 depicts a minor engaged as a subject of sadomasochistic abuse or sexual
9 conduct; expanding a certain provision of the child pornography laws so as to
10 prohibit a person from knowingly advertising, ~~presenting,~~ or soliciting any
11 matter, ~~purported-matter,~~ visual representation, or performance that depicts a
12 minor engaged as a subject of sadomasochistic abuse or sexual conduct; and
13 generally relating to child pornography.

14 BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 Article – Criminal Law
 2 Section 11–207
 3 Annotated Code of Maryland
 4 (2002 Volume and 2009 Supplement)

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

7 **Article – Criminal Law**

8 11–207.

9 (a) A person may not:

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

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

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

17 (4) knowingly promote, **ADVERTISE, ~~PRESENT,~~ SOLICIT**, distribute,
 18 or possess with the intent to distribute any matter, **~~PURPORTED MATTER,~~** visual
 19 representation, or performance:

20 **(I)** that depicts a minor engaged as a subject in sadomasochistic
 21 abuse or sexual conduct; or

22 **(II) IN A MANNER THAT REFLECTS THE BELIEF, OR THAT IS**
 23 **INTENDED TO CAUSE ANOTHER TO BELIEVE, THAT THE MATTER, ~~PURPORTED~~**
 24 **~~MATTER,~~ VISUAL REPRESENTATION, OR PERFORMANCE DEPICTS A MINOR**
 25 **ENGAGED AS A SUBJECT OF SADOMASOCHISTIC ABUSE OR SEXUAL CONDUCT;**
 26 **OR**

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

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

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

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

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

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

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

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

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

17 (iii) expert medical testimony; or

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

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2010.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.