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## POSITION ON PROPOSED LEGISLATION

**BILL: House Bill 670, Criminal Law- Child Pornography- Prohibitions and Penalties**

**FROM: Maryland Office of the Public Defender**

**POSITION: Unfavorable**

**DATE: 2/13/26**

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The Maryland Office of the Public Defender respectfully requests that the Committee issue an unfavorable report on House Bill 670.

This bill creates an additional crime for possession of more than 100 images of child pornography. The Office of the Public Defender opposes this bill because current law already adequately protects children and the public. The conduct of possessing child pornography is already a crime, and this bill will punish an individual for possessing a single image and for possession of that image as part of a collection of images. This effectively punishes possession of the same image twice.

It is already the law that possession of a single image of child pornography is a felony punishable by five (5) years of incarceration on a first offense. The Maryland Appellate court has held that each instance of possession of child pornography as proscribed by CR § 11-208, is a discrete and independent offense, and therefore, subject to separate punishment. *Payne v. State*, 243 Md. Ap 465 (2019). The *Payne* case demonstrates that Judges can, and do, sentence people consecutively per image. If a person is in possession of 101 prohibited images they can be charged with and sentenced for 101 counts of possession of child pornography. They could be subject to 101 five year sentences to be run consecutively, for a total of 505 years. The creation of an additional crime for the purpose of adding an additional ten year sentence does not further the goals of protecting the public in any meaningful way.

**For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an unfavorable report on House Bill 670.**

**Submitted by: Maryland Office of the Public Defender, Government Relations Division.**

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