

HOUSE BILL 149

E1
HB 931/20 – JUD

(PRE-FILED)

1lr1279

By: **Delegate Wilson**

Requested: October 29, 2020

Introduced and read first time: January 13, 2021

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Distribution of Child Pornography – Minor**

3 FOR the purpose of altering a certain prohibition to apply only to a person over a certain
4 age against knowingly promoting, advertising, soliciting, distributing, or possessing
5 with the intent to distribute any matter, visual representation, or performance that
6 depicts a minor engaged as a certain subject or in a manner that reflects a certain
7 belief or is intended to cause another to adopt a certain belief; and generally relating
8 to child pornography.

9 BY repealing and reenacting, with amendments,
10 Article – Criminal Law
11 Section 11–207
12 Annotated Code of Maryland
13 (2012 Replacement Volume and 2020 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
15 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 subject
20 in the production of obscene matter or a visual representation or performance that depicts
21 a minor engaged as a subject in sadomasochistic abuse or sexual conduct;

22 (2) photograph or film a minor engaging in an obscene act, sadomasochistic

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 abuse, or sexual conduct;

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

4 (4) [knowingly promote, advertise, solicit, distribute, or possess with the
5 intent to distribute any matter, visual representation, or performance:

6 (i) that depicts a minor engaged as a subject in sadomasochistic
7 abuse or sexual conduct; or

8 (ii) in a manner that reflects the belief, or that is intended to cause
9 another to believe, that the matter, visual representation, or performance depicts a minor
10 engaged as a subject of 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 notice,
13 statement, advertisement, or minor's name, telephone number, place of residence, physical
14 characteristics, or other descriptive or identifying information for the purpose of engaging
15 in, facilitating, encouraging, offering, or soliciting unlawful sadomasochistic abuse or
16 sexual conduct of or with a minor.

17 (b) **A PERSON AT LEAST 18 YEARS OLD MAY NOT KNOWINGLY PROMOTE,**
18 **ADVERTISE, SOLICIT, DISTRIBUTE, OR POSSESS WITH THE INTENT TO DISTRIBUTE**
19 **ANY MATTER, VISUAL REPRESENTATION, OR PERFORMANCE:**

20 **(1) THAT DEPICTS A MINOR ENGAGED AS A SUBJECT IN**
21 **SADOMASOCHISTIC ABUSE OR SEXUAL CONDUCT; OR**

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

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

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

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

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

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

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

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

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

11 (iii) expert medical testimony; or

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

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2021.