

MARYLAND STATE OBSCENITY & LIBRARY/SCHOOL FILTERING STATUTES

(Last Updated Summer 2012)

Md. CRIMINAL LAW Code Ann.

Md. CRIMINAL LAW CODE Ann. § 11-201. Definitions

**** REVISOR'S NOTE**

This subsection is new language derived without substantive change from the introductory language of former Art. 27, § 417.

- (a) In general. -- In this subtitle the following words have the meanings indicated.
- (b) Distribute. -- "Distribute" means to transfer possession.
- (c) Knowingly. -- "Knowingly" means having knowledge of the character and content of the matter.
- (d) Matter. -- "Matter" means:
 - (1) a book, magazine, newspaper, or other printed or written material;
 - (2) a picture, drawing, photograph, motion picture, or other pictorial representation;
 - (3) a statue or other figure;
 - (4) a recording, transcription, or mechanical, chemical, or electrical reproduction; or
 - (5) any other article, equipment, machine, or material.
- (e) Sodomasochistic abuse. -- "Sodomasochistic abuse" has the meaning stated in § 11-101 of this title.
- (f) Sexual conduct. -- "Sexual conduct" has the meaning stated in § 11-101 of this title.
- (g) Sexual excitement. -- "Sexual excitement" has the meaning stated in § 11-101 of this title.

§ 11-202. Obscene matter -- Distribution, exhibition, importation, and publication

- (a) Prohibited. -- A person may not:
 - (1) knowingly send or cause to be sent any obscene matter into the State for sale or distribution;
 - (2) knowingly bring or cause to be brought any obscene matter into the State for sale or distribution;
 - (3) in the State prepare, publish, print, exhibit, distribute, or offer to distribute any obscene matter; or
 - (4) possess any obscene matter in the State with the intent to distribute, offer to distribute, or exhibit.
- (b) Penalty. -- A person who violates this section is guilty of a misdemeanor and on conviction is subject to:
 - (1) for a first violation, imprisonment not exceeding 1 year or a fine not exceeding \$ 1,000 or both; and
 - (2) for each subsequent violation, imprisonment not exceeding 3 years or a fine not exceeding \$ 5,000 or both.
- (c) Injunction. --
 - (1) The State's Attorney may maintain an action for an injunction in the circuit court against a person to prevent the sale, further sale, distribution, further distribution, acquisition, publication, or possession within the State of any

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- book, magazine, pamphlet, newspaper, story paper, writing paper, picture, card, drawing, photograph, motion picture film or showing, or any article, item, or instrument the use of which is obscene.
- (2) The circuit court may enjoin the sale or distribution of a book, magazine, motion picture film or showing, or other publication or item that is prohibited under this section from sale or distribution.
 - (3) After being served a summons and complaint in an action by the State's Attorney under this section, a person who sells, distributes, or acquires the enjoined material is chargeable with knowledge of the contents of the materials described in this section.
 - (4) The defendant is entitled to a trial of the issues within 1 day after joinder of issue.
 - (5) The court shall render a decision within 2 days after the conclusion of the trial.
 - (6) If an order or judgment is entered in favor of the State's Attorney, the final order or judgment shall contain provisions:
 - (i) directing the person to surrender the obscene matter to the peace officer designated by the court or the county sheriff; and
 - (ii) directing the peace officer or county sheriff to seize and destroy the obscene matter.
 - (7) In an action brought under this section, the State's Attorney is not:
 - (i) required to file a bond before an injunction order is issued;
 - (ii) liable for costs; or
 - (iii) liable for damages sustained because of the injunction order if judgment is rendered in favor of the defendant.

§ 11-203. Sale or display of obscene item to minor

- (a) Definitions. --
 - (1) In this section the following words have the meanings indicated.
 - (2) "Distribute" includes to rent.
 - (3) "Illicit sex" means:
 - (i) human genitals in a state of sexual stimulation or arousal;
 - (ii) acts of human masturbation, sexual intercourse, or sodomy; or
 - (iii) fondling or other erotic touching of human genitals.
 - (4) "Item" means a:
 - (i) still picture or photograph;
 - (ii) book, pocket book, pamphlet, or magazine;
 - (iii) videodisc, videotape, video game, film, or computer disc; or
 - (iv) recorded telephone message.
 - (5) "Obscene" means:
 - (i) that the average adult applying contemporary community standards would find that the work, taken as a whole, appeals to the prurient interest;
 - (ii) that the work depicts sexual conduct specified in subsection (b) of this section in a way that is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material; and

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- (iii) that the work, taken as a whole, lacks serious artistic, educational, literary, political, or scientific value.
 - (6) "Partially nude figure" means a figure with:
 - (i) less than completely and opaquely covered human genitals, pubic region, buttocks, or female breast below a point immediately above the top of the areola; or
 - (ii) human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- (b) Prohibited. --
 - (1) A person may not willfully or knowingly display or exhibit to a minor an item:
 - (i) the cover or content of which is principally made up of an obscene description or depiction of illicit sex; or
 - (ii) that consists of an obscene picture of a nude or partially nude figure.
 - (2) A person may not willfully or knowingly engage in the business of displaying, exhibiting, selling, showing, advertising for sale, or distributing to a minor an item:
 - (i) the cover or content of which is principally made up of an obscene description or depiction of illicit sex; or
 - (ii) that consists of an obscene picture of a nude or partially nude figure.
 - (3) If a newsstand or other place of business is frequented by minors, the owner, operator, franchisee, manager, or an employee with managerial responsibility may not openly and knowingly display at the place of business an item whose sale, display, exhibition, showing, or advertising is prohibited by paragraph (2) of this subsection.
- (c) Exception. -- The provision of services or facilities by a telephone company under a tariff approved by the Public Service Commission is not a violation of subsection (b) of this section relating to recorded telephone messages.
- (d) Penalty. -- A person who violates this section is guilty of a misdemeanor and on conviction is subject to:
 - (1) for a first violation, imprisonment not exceeding 1 year or a fine not exceeding \$ 1,000 or both; and
 - (2) for each subsequent violation, imprisonment not exceeding 3 years or a fine not exceeding \$ 5,000 or both.

§ 11-204. Obscene performance in certain counties

- (a) Scope of section. -- This section applies only in Allegany, Anne Arundel, Charles, Howard, Somerset, Wicomico, and Worcester counties.
- (b) Prohibited. --
 - (1) A person may not prepare, give, direct, present, perform or participate in an obscene performance, exhibition, drama, play, show, dancing exhibition, tableau, or other entertainment in which individuals perform or participate live in an obscene manner in the presence of individuals who have paid any kind of consideration to observe the exhibition or performance.
 - (2) An owner, lessee, or manager of a building, garden, place, room, structure, or theater may not knowingly allow or assent to the use of the premises for the types of exhibitions prohibited by paragraph (1) of this subsection.

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- (c) Penalty. -- A person who violates this section is guilty of a misdemeanor and on conviction is subject to:
 - (1) for a first violation, imprisonment not exceeding 1 year or a fine not exceeding \$ 1,000 or both; and
 - (2) for each subsequent violation, imprisonment not exceeding 3 years or a fine not exceeding \$ 5,000 or both.

§ 11-205. Obscene matter -- Advertising

- (a) Prohibited. -- A person may not knowingly:
 - (1) write or create advertising or otherwise promote the sale or distribution of matter the person represents or holds out to be obscene; or
 - (2) solicit the publication of advertising that promotes the sale or distribution of matter the person represents or holds out to be obscene.
- (b) Penalty. -- A person who violates this section is guilty of a misdemeanor and on conviction is subject to:
 - (1) for a first violation, imprisonment not exceeding 1 year or a fine not exceeding \$ 1,000 or both; and
 - (2) for each subsequent violation, imprisonment not exceeding 3 years or a fine not exceeding \$ 5,000 or both.

§ 11-206. Obscene matter -- Requiring acceptance

- (a) Prohibited. --
 - (1) A person may not knowingly require a purchaser or consignee to receive obscene matter as a condition to a sale, allocation, consignment, or delivery for resale of a paper, magazine, book, periodical, publication, or other merchandise.
 - (2) In response to a person's return of or failure to accept obscene matter, a person may not knowingly:
 - (i) deny or revoke a franchise;
 - (ii) threaten to deny or revoke a franchise; or
 - (iii) impose a financial or other penalty.
- (b) Penalty. -- A person who violates this section is guilty of a misdemeanor and on conviction is subject to:
 - (1) for a first violation, imprisonment not exceeding 1 year or a fine not exceeding \$ 1,000 or both; and
 - (2) for each subsequent violation, imprisonment not exceeding 3 years or a fine not exceeding \$ 5,000 or both.

§ 11-207. Child pornography

- (a) Prohibited. -- A person may not:
 - (1) cause, induce, solicit, or knowingly allow a minor to engage as a subject in the production of obscene matter or a visual representation or performance that depicts a minor engaged as a subject in sadomasochistic abuse or sexual conduct;
 - (2) photograph or film a minor engaging in an obscene act, sadomasochistic abuse, or sexual conduct;

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- (3) use a computer to depict or describe a minor engaging in an obscene act, sadomasochistic abuse, or sexual conduct;
- (4) knowingly promote, advertise, solicit, distribute, or possess with the intent to distribute any matter, visual representation, or performance:
 - (i) that depicts a minor engaged as a subject in sadomasochistic abuse or sexual conduct; or
 - (ii) in a manner that reflects the belief, or that is intended to cause another to believe, that the matter, visual representation, or performance depicts a minor engaged as a subject of sadomasochistic abuse or sexual conduct; or
- (5) use a computer to knowingly compile, enter, transmit, make, print, publish, reproduce, cause, allow, buy, sell, receive, exchange, or disseminate any notice, statement, advertisement, or minor's name, telephone number, place of residence, physical characteristics, or other descriptive or identifying information for the purpose of engaging in, facilitating, encouraging, offering, or soliciting unlawful sadomasochistic abuse or sexual conduct of or with a minor.
- (b) Penalty. -- A person who violates this section is guilty of a felony and on conviction is subject to:
 - (1) for a first violation, imprisonment not exceeding 10 years or a fine not exceeding \$ 25,000 or both; and
 - (2) for each subsequent violation, imprisonment not exceeding 20 years or a fine not exceeding \$ 50,000 or both.
- (c) Evidence. --
 - (1)
 - (i) This paragraph applies only if the minor's identity is unknown or the minor is outside the jurisdiction of the State.
 - (ii) In an action brought under this section, the State is not required to identify or produce testimony from the minor who is depicted in the obscene matter or in any visual representation or performance that depicts the minor engaged as a subject in sadomasochistic abuse or sexual conduct.
 - (2) The trier of fact may determine whether an individual who is depicted in an obscene matter, or any visual representation or performance as the subject in sadomasochistic abuse or sexual conduct, was a minor by:
 - (i) observation of the matter depicting the individual;
 - (ii) oral testimony by a witness to the production of the matter, representation, or performance;
 - (iii) expert medical testimony; or
 - (iv) any other method authorized by an applicable provision of law or rule of evidence.

§ 11-208. Possession of visual representation of child under 16 engaged in certain sexual acts

- (a) Prohibited. -- A person may not knowingly possess and intentionally retain a film, videotape, photograph, or other visual representation showing an actual child under the age of 16 years:
 - (1) engaged as a subject of sadomasochistic abuse;

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- (2) engaged in sexual conduct; or
 - (3) in a state of sexual excitement.
- (b) Penalty. --
 - (1) Except as provided in paragraph (2) of this subsection, a person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding \$ 2,500 or both.
 - (2) A person who violates this section, having previously been convicted under this section, is guilty of a felony and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$ 10,000 or both.
- (c) Exemption. -- Nothing in this section may be construed to prohibit a parent from possessing visual representations of the parent's own child in the nude unless the visual representations show the child engaged:
 - (1) as a subject of sadomasochistic abuse; or
 - (2) in sexual conduct and in a state of sexual excitement.
- (d) Affirmative defense. -- It is an affirmative defense to a charge of violating this section that the person promptly and in good faith:
 - (1) took reasonable steps to destroy each visual representation; or
 - (2) reported the matter to a law enforcement agency.

§ 11-208.1. Removal of child pornography from Internet

- (a) Definitions. --
 - (1) In this section the following words have the meanings indicated.
 - (2) "Child pornography" means any electronic image or visual depiction that is unlawful under § 11-207 or § 11-208 of this subtitle.
 - (3) "Controlled or owned", with respect to a server or other storage device, means to be entirely owned by an interactive computer service provider or to be subject to exclusive management by an interactive computer service provider by agreement or otherwise.
 - (4) "Interactive computer service provider" means an entity that provides a service that provides or enables computer access via the Internet by multiple users to a computer server or similar device used for the storage of graphics, video, or images.
- (b) Duties of investigative or law enforcement officer upon receiving information of alleged child pornography. -- An investigative or law enforcement officer who receives information that an item of alleged child pornography resides on a server or other storage device controlled or owned by an interactive computer service provider shall:
 - (1) contact the interactive computer service provider that controls or owns the server or other storage device where the item of alleged child pornography is located;
 - (2) inform the interactive computer service provider of the provisions of this section; and
 - (3) request that the interactive computer service provider voluntarily comply with this section and remove the item of alleged child pornography from its server or other storage device, if practicable, within 5 business days.
- (c) Application for court order upon noncompliance by interactive computer service provider. --

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- (1) If the interactive computer service provider does not voluntarily remove the item of alleged child pornography within the time period established in subsection (b) of this section, the investigative or law enforcement officer shall apply for a court order of authorization to remove the item of alleged child pornography in accordance with Title 10, Subtitle 4 of the Courts Article.
- (2) The application for a court order shall:
 - (i) identify the item of alleged child pornography discovered on the server or other storage device controlled or owned by an interactive computer service provider;
 - (ii) provide its location on the server or other storage device in the form of an Internet protocol (IP) address or uniform resource locator (URL);
 - (iii) state the grounds for the issuance of the order;
 - (iv) verify that the item of alleged child pornography resides on the server or other storage device controlled or owned by the interactive computer service provider;
 - (v) describe the steps taken to obtain voluntary compliance of the interactive computer service provider with this section;
 - (vi) inform the interactive computer service provider of its right to request a hearing on the application; and
 - (vii) state the name and title of the affiant.
- (3) The investigative or law enforcement officer shall serve the application on the interactive computer service provider.
- (4) The interactive computer service provider has the right to request a hearing before the court imposes any penalty under this section.
- (d) Contents of court order. -- The court shall review the application and testimony, if offered, and, upon a finding of probable cause, issue an order that:
 - (1) an item of child pornography resides on a server or other storage device controlled or owned by the interactive computer service provider or is accessible to persons located in the State;
 - (2) there is probable cause to believe that the item violates § 11-207 or § 11-208 of this subtitle;
 - (3) the interactive computer service provider shall remove the item residing on a server or other storage device controlled or owned by the interactive computer service provider within 5 business days after receiving the order, if practicable;
 - (4) failure of the interactive computer service provider to comply with the court's order is a violation of this section;
 - (5) the removal of the item on the server or other storage device controlled or owned by the interactive computer service provider may not unreasonably interfere with a request by a law enforcement agency to preserve records or other evidence;
 - (6) the process of removal shall be conducted in a manner that prevents the removal of images, information, or data not otherwise subject to removal under this section; and
 - (7) provides the interactive computer service provider notice and opportunity for a hearing before the court imposes any penalty under this section.
- (e) Service and notification. --
 - (1) The Office of the State's Attorney shall serve the court's order on the interactive computer service provider.

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- (2) The order shall be accompanied by:
 - (i) the application made under subsection (c) of this section;
 - (ii) notification requiring the interactive computer service provider to remove the item residing on a server or other storage device controlled or owned by the interactive computer service provider, if practicable, within 5 business days after receiving the order;
 - (iii) notification of the criminal penalties for failure to remove the item of child pornography;
 - (iv) notification of the right to appeal the court's order; and
 - (v) contact information for the Office of the State's Attorney.
- (f) Time frame for removal of child pornography. -- An interactive computer service provider who is served with a court order under subsection (e) of this section shall remove the item of child pornography that is the subject of the order within 5 business days after receiving the court order, if practicable.
- (g) Relief for cause from court order. --
 - (1) An interactive computer service provider may petition the court for relief for cause from an order issued under subsection (d) of this section.
 - (2) The petition may be based on considerations of:
 - (i) the cost or technical feasibility of compliance with the order; or
 - (ii) the inability of the interactive computer service provider to comply with the order without also removing data, images, or information that are not subject to this section.
- (h) Report of child pornography by service provider. --
 - (1) (i) Subject to subparagraph (ii) of this paragraph, an interactive computer service provider shall report the location of an item of child pornography to the State Police if the item of child pornography:
 - 1. resides on a server or other storage device that is:
 - A. controlled or owned by the interactive computer service provider; and
 - B. located in the State; or
 - 2. based on information apparent to the provider at the time of the report or discovery of an item of child pornography, pertains to a subscriber or user of the interactive computer service who resides in the State.
 - (ii) Subparagraph (i) of this paragraph does not apply to an interactive computer service provider if:
 - 1. federal law expressly provides for or permits the referral of a report of an item of child pornography to a State or local law enforcement agency; and
 - 2. the interactive computer service provider complies with the federal law.
 - (2) An interactive computer service provider who knowingly and willfully fails to report the information required under paragraph (1) of this subsection is guilty of a misdemeanor and on conviction is subject to:
 - (i) for a first violation, a fine not exceeding \$ 5,000;
 - (ii) for a second violation, a fine not exceeding \$ 20,000; and
 - (iii) for each subsequent violation, a fine not exceeding \$ 30,000.
- (i) Penalty for violation of subsection (f). -- An interactive computer service provider who willfully violates subsection (f) of this section is guilty of a misdemeanor and on conviction is subject to:

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- (1) for a first violation, a fine not exceeding \$ 5,000;
 - (2) for a second violation, a fine not exceeding \$ 20,000; and
 - (3) for each subsequent violation, a fine not exceeding \$ 30,000.
- (j) Penalty for violation of subsection (f) or (h). -- An interactive computer service provider who willfully violates subsection (f) or (h) of this section may be prosecuted, indicted, tried, and convicted in any county in or through which:
 - (1) the interactive computer service provider provides access to the Internet;
 - (2) any communication from the interactive computer service provider traveled; or
 - (3) the communication from the interactive computer service provider originated or terminated.
- (k) No duty by service provider to actively monitor its service. --
 - (1) This section does not impose a duty on an interactive computer service provider actively to monitor its service or affirmatively to seek evidence of an item of child pornography on its service.
 - (2) This section does not apply to the interactive computer service provider's transmission or routing of, or intermediate temporary storage or caching of, an image, information, or data that otherwise is subject to this section.
- (l) Good faith action to comply. -- An interactive computer service provider may not be held liable for any action taken in good faith to comply with this section.

§ 11-209. Hiring minor for prohibited purpose

- (a) Prohibited. -- A person may not hire, employ, or use an individual, if the person knows, or possesses facts under which the person should reasonably know, that the individual is a minor, to do or assist in doing an act described in § 11-203 of this subtitle.
- (b) Penalty. -- A person who violates this section is guilty of a misdemeanor and on conviction is subject to:
 - (1) for a first violation, imprisonment not exceeding 1 year or a fine not exceeding \$ 1,000 or both; and
 - (2) for each subsequent violation, imprisonment not exceeding 3 years or a fine not exceeding \$ 5,000 or both.

§ 11-210. Exemption from subtitle

- (a) Bona fide justification. --
 - (1) A person having a bona fide scientific, educational, governmental, artistic, news, or other similar justification for possessing or distributing prohibited matter is not subject to the prohibitions and penalties imposed by this subtitle.
 - (2) A distribution made in accordance with a bona fide scientific, educational, governmental, artistic, news, or other similar justification is not subject to the prohibitions and penalties imposed by this subtitle.
- (b) Exception to justification. -- A justification is not bona fide under this section if a reasonable person would find that a dominant purpose of the depiction of an individual under the age of 16 years engaging in sexual conduct is to arouse or gratify sexual desire in either the violator, the individual under the age of 16 years, or the viewer.

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§ 11-211. Destruction of obscene matter under court order

When the conviction of a person for a violation of this subtitle becomes final, the court may order the destruction of any matter or advertisement that was the basis of the person's conviction and that remains in the possession or under the control of the court, the State, or a law enforcement unit.

§ 11-101. Definitions

- (a) In general. -- In this subtitle the following words have the meanings indicated.
- (b) Advertising purposes. -- "Advertising purposes" means the purpose of propagandizing in connection with the commercial:
 - (1) sale of a product;
 - (2) offering of a service; or
 - (3) exhibition of entertainment.
- (c) Sadomasochistic abuse. -- "Sadomasochistic abuse" means:
 - (1) flagellation or torture committed by or inflicted on an individual who is:
 - (i) nude;
 - (ii) wearing only undergarments; or
 - (iii) wearing a revealing or bizarre costume; or
 - (2) binding, fettering, or otherwise physically restraining an individual who is:
 - (i) nude;
 - (ii) wearing only undergarments; or
 - (iii) wearing a revealing or bizarre costume.
- (d) Sexual conduct. -- "Sexual conduct" means:
 - (1) human masturbation;
 - (2) sexual intercourse; or
 - (3) whether alone or with another individual or animal, any touching of or contact with:
 - (i) the genitals, buttocks, or pubic areas of an individual; or
 - (ii) breasts of a female individual.
- (e) Sexual excitement. -- "Sexual excitement" means:
 - (1) the condition of the human genitals when in a state of sexual stimulation;
 - (2) the condition of the human female breasts when in a state of sexual stimulation; or
 - (3) the sensual experiences of individuals engaging in or witnessing sexual conduct or nudity.

§ 11-102. Adult sexual displays -- Selling or offering to sell to minor

- (a) Prohibited. -- A person may not knowingly sell or offer to sell to a minor:
 - (1) a picture, photograph, drawing, sculpture, motion picture, film, or other visual representation or image of an individual or portion of the human body that depicts sadomasochistic abuse, sexual conduct, or sexual excitement;

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- (2) a book, magazine, paperback, pamphlet, or other written or printed matter however reproduced, that contains:
 - (i) any matter enumerated in item (1) of this section;
 - (ii) obscene material; or
 - (iii) explicit verbal descriptions or narrative accounts of sadomasochistic abuse, sexual conduct, or sexual excitement; or
- (3) a sound recording that contains:
 - (i) obscene material; or
 - (ii) explicit verbal descriptions or narrative accounts of sadomasochistic abuse, sexual conduct, or sexual excitement.
- (b) Penalty. -- A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding \$ 1,000 or both.

§ 11-103. Adult sexual displays -- Exhibition to minors

- (a) Scope of section. -- This section applies to a motion picture show or other presentation, whether animated or live, that wholly or partly:
 - (1) depicts or reveals:
 - (i) sadomasochistic abuse;
 - (ii) sexual conduct; or
 - (iii) sexual excitement; or
 - (2) includes obscene material or explicit verbal descriptions or narrative accounts of sexual conduct.
- (b) Prohibited. -- For monetary consideration or other valuable commodity or service, a person may not knowingly:
 - (1) exhibit to a minor without the presence of the minor's parent or guardian a motion picture show or other presentation described in subsection (a) of this section;
 - (2) sell to a minor an admission ticket or other means to gain entrance to a motion picture show or other presentation described in subsection (a) of this section; or
 - (3) admit a minor without the presence of the minor's parent or guardian to premises where a motion picture show or other presentation described in subsection (a) of this section is exhibited.
- (c) Penalty. -- A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding \$ 1,000 or both.

§ 11-104. Adult sexual displays -- Allowing minors to enter or remain on premises

- (a) Prohibited. -- A person who operates or is employed in a sales, cashier, or managerial capacity in a retail establishment may not knowingly allow a minor without the presence of the minor's parent or guardian to enter or remain on any premises where an item or activity detailed in § 11-102(a) of this subtitle is shown, displayed, or depicted.
- (b) Penalty. -- A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding \$ 1,000 or both.

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§ 11-104.1. Adult sexual displays -- Allowing minors to enter or remain on premises -- Bookstores and entertainment venues

- (a) Harford and Cecil counties. -- In Harford County and Cecil County, a person who operates a bookstore or entertainment venue in which an item or activity described in § 11-102 or § 11-103 of this subtitle is shown, displayed, or depicted and constitutes a majority of the items or activities offered for sale or rental by the bookstore or entertainment venue:
 - (1) shall require each individual upon entering the premises to display a driver's license or an identification card that substantiates the individual's age; and
 - (2) may not knowingly allow a minor to remain on the premises.
- (b) Penalties. -- A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding \$ 1,000 or both.

§ 11-105. Adult sexual displays -- Displaying or allowing display for advertising purposes

- (a) Prohibited -- Display. -- A person may not knowingly display for advertising purposes a picture, photograph, drawing, sculpture, or other visual representation or image of an individual or portion of a human body that:
 - (1) depicts sadomasochistic abuse;
 - (2) depicts sexual conduct;
 - (3) depicts sexual excitement; or
 - (4) contains a verbal description or narrative account of sadomasochistic abuse, sexual conduct, or sexual excitement.
- (b) Prohibited -- Allowing display. -- A person may not knowingly allow a display described in subsection (a) of this section on premises that the person owns, rents, or manages.
- (c) Penalty. -- A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding \$ 1,000 or both.

§ 11-106. Adult sexual displays -- Presumptions

For purposes of §§ 11-101 through 11-105 of this subtitle, an employee of a person who operates premises where a public display violates this subtitle is presumed to have been the operator of the premises when the violation occurred if the employee was on the premises at the time of the violation.

§ 11-107. Indecent exposure

A person convicted of indecent exposure is guilty of a misdemeanor and is subject to imprisonment not exceeding 3 years or a fine not exceeding \$ 1,000 or both.

§ 3-805. Misuse of electronic mail

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- (a) "Electronic mail" defined. -- In this section, "electronic mail" means the transmission of information or a communication by the use of a computer or other electronic means that is sent to a person identified by a unique address and that is received by the person.
 - (b) Prohibited. -- A person may not use electronic mail with the intent to harass:
 - (1) one or more persons; or
 - (2) by sending lewd, lascivious, or **obscene** material.
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Md. EDUCATION CODE Ann. § 23-506.1. Prevention of access by minors to obscene materials or child pornography

- (a) Definitions. --
 - (1) In this section the following words have the meanings indicated.
 - (2) "**Obscene**" has the meaning stated in § 11-203 of the Criminal Law Article.
 - (3) "Child pornography" means a violation of § 11-207 of the Criminal Law Article.
- (b) Policies and procedures. -- On or before January 1, 2001, each county or board of trustees of a county library shall:
 - (1) Adopt and implement policies and procedures to prevent minors from obtaining access through the library, by means of the Internet, the World Wide Web, Usenet, or any other interactive computer service to materials that are **obscene** or constitute child pornography; and
 - (2) Submit the policies and procedures required under this section to the State Superintendent for review.
- (c) Monitoring compliance. -- The State Superintendent or a designee of the State Superintendent shall regularly monitor the county libraries to determine whether each library is complying with the policies and procedures adopted for preventing a minor from obtaining Internet access to **obscene** materials through the library.

"Online Child Safety Act"

Md. COMMERCIAL LAW Code Ann. § 14-3701. Definitions

- (a) In general. -- In this subtitle the following words have the meanings indicated.
- (b) Child. -- "Child" means an individual under the age of 18 years.
- (c) Computer network. -- "Computer network" means the computer network commonly known as the Internet and any other local, regional, or global computer network that is similar to or is a predecessor of or successor to the Internet.
- (d) Internet. -- "Internet" means the international computer network of both federal and nonfederal interoperable packet-switched data networks.
- (e) Internet access provider. --
 - (1) "Internet access provider" means a provider that offers directly to residential customers an interactive computer service to obtain access to the Internet in exchange for consideration, such as through a paid subscription or through an agreement to view specific advertising or other content.

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- (2) "Internet access provider" does not include a library or educational institution that operates or offers an interactive computer service to obtain access to the Internet.
- (f) Interactive computer service. --
 - (1) "Interactive computer service" means an information service, system, or access software provider that provides or enables computer access by multiple users to a computer service.
 - (2) "Interactive computer service" includes a service or system that provides access to the Internet and systems operated or services offered by a library or educational institution.
- (g) Parental control. -- "Parental control" means a product or service to control the access of a child to the Internet.

§ 14-3702. Legislative intent

It is the intent of the General Assembly that this subtitle promote the dissemination of qualifying parental controls for the protection of children in the State subject to appropriate and beneficial oversight by their parents and families.

§ 14-3703. Applicability

This subtitle applies to an Internet access provider that knows or has reason to know that a subscriber currently resides in the State.

§ 14-3704. Parental control

- (a) Requirements. --
 - (1) Subject to paragraph (2) of this subsection, an Internet access provider shall make a parental control that satisfies the requirements of this section available to each subscriber in the State.
 - (2) The Internet access provider may not be required to provide a parental control that is not reasonably and commercially available for the technology that the subscriber uses to obtain access to the Internet.
- (b) Functions. -- A parental control shall allow the subscriber, in a commercially reasonable manner, to:
 - (1) Block all access to the Internet; and
 - (2)
 - (i) Block a child's access to websites by specifying prohibited websites or by selecting a category of sites to block;
 - (ii) Restrict a child's access exclusively to websites that the subscriber approves or a category of websites that the subscriber approves;
 - (iii) Restrict a child's access to websites that the parental control provider designates; or
 - (iv) Monitor a child's use of the Internet by providing a report to the subscriber indicating:

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- 1. Each specific website that the child has attempted to visit but was unable to view because the subscriber blocked or restricted access to the website; or
- 2. Each specific website that the child has visited.

§ 14-3705. Availability and charge

- (a) Time of subscription. -- The Internet access provider shall make available to the subscriber, at or near the time of subscription, a parental control that satisfies the requirements of § 14-3704 of this subtitle.
- (b) Directly or through third party. -- The Internet access provider may make the parental control available to the subscriber either directly or through a link to a third party.
- (c) Charge. -- The Internet access provider or third party may charge for the parental control.