

“the reenactment of a crime or the expression of the defendant’s thoughts, feelings, opinions, or emotions regarding a crime”. These terms require the Attorney General to consider the subject matter of the work in determining whether the contract falls under the statute. Content-based statutes are presumptively inconsistent with the First Amendment because they raise the specter that the Government may effectively drive certain ideas or viewpoints from the marketplace.

The Court further hinted that the Maryland statute is overbroad to the extent that a substantial portion of the burden it places on speech does not advance the State’s interests — preventing criminals from profiting from crimes and compensating victims of crimes. Under the statute, works that are only remotely related to the crime would have to be submitted to the Attorney General.

Further, the Court said the statute failed to meet the standards for testing the constitutionality of prior restraint that were set out in *Freedman v. State of Maryland*, 380 U.S. 51 (1965). The statute fails in three ways: (1) it imposes on the defendant the burden of proving that his or her speech falls outside the statute; (2) by making any restraint imposed by the Attorney General final, it imposes on the defendant or publisher the onus to seek judicial review; and (3) by setting a 180-day period for the court to grant review, the statute opens the possibility that a judicial review, if sought, would not take place within a time frame that would be acceptable under past Supreme Court decisions.

Finally, the Maryland Court found that the statute could not require a defendant to submit at the State’s behest a contract that meets the description of a notoriety of crimes contract without thereby implicitly acknowledging the commission of a crime and thus violating the Fifth Amendment.

#### SUBTITLE 7. REGISTRATION OF CERTAIN OFFENDERS.

##### 11-701. DEFINITIONS.

###### (A) IN GENERAL.

IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

REVISOR’S NOTE: This subsection is new language derived without substantive change from former Art. 27, § 792(a)(1).

###### (B) CHILD SEXUAL OFFENDER.

“CHILD SEXUAL OFFENDER” MEANS A PERSON WHO:

- (1) HAS BEEN CONVICTED OF VIOLATING THE ABUSE OF CHILDREN STATUTE UNDER ARTICLE 27, § 35C OF THE CODE FOR A CRIME INVOLVING SEXUAL ABUSE OF A CHILD UNDER THE AGE OF 18 YEARS;