

(2) FOR A SECOND FOR SUBSEQUENT OFFENSE A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$5,000 OR IMPRISONMENT NOT EXCEEDING 2 YEARS OR BOTH.

423.

(a) The prohibitions and penalties imposed in this subtitle shall not extend to persons having bona fide scientific, educational, governmental, artistic, news, or other similar justification for possessing or distributing such matter, or to distributions thereof pursuant to such justification.

(b) A justification is not bona fide under this section with regard to depictions of [children] INDIVIDUALS UNDER THE AGE OF ~~18~~ 16 YEARS engaging in sexual conduct if a reasonable person would find that a dominant purpose of the depiction is to arouse or gratify sexual desire in either the perpetrator, [child] INDIVIDUAL UNDER THE AGE OF ~~18~~ 16 YEARS, or viewer.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 1992.

May 26, 1992

The Honorable R. Clayton Mitchell, Jr.
Speaker of the House of Delegates
State House
Annapolis, Maryland 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have today vetoed House Bill 563.

This bill would permit the use in court proceedings of statements made by a child who is the alleged victim of rape or a sexual offense.

Senate Bill 429, which was passed by the General Assembly and signed by me on May 12, 1992, accomplishes the same purpose. Therefore, it is not necessary for me to sign House Bill 563.

Sincerely,
William Donald Schaefer
Governor