

HOUSE BILL 285

E1

(7lr1876)

ENROLLED BILL

— *Judiciary/Judicial Proceedings* —

Introduced by **Delegates Stifler, Bates, Bromwell, Eckardt, Elliott, Frank, George, Glassman, Kelly, Krebs, McComas, O'Donnell, Olszewski, Schuler, Shank, Shewell, Smigiel, Sossi, and Valderrama**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Criminal Law - Possession of Child Pornography - Penalty**

3 FOR the purpose of altering ~~the age of an individual relating to a provision of law to~~
4 make the offense of knowingly possessing a film, videotape, photograph, or
5 other visual representation showing ~~a certain depiction of~~ an individual under a
6 certain age; ~~altering the penalty for the offense of knowingly possessing a film,~~
7 ~~videotape, photograph, or other visual representation showing~~ apply only to a
8 ~~certain depiction of an individual~~ actual child under a certain age; *providing for*

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber / conference committee amendments.



1 a certain affirmative defense to a charge under this Act; altering a certain
 2 criminal penalty; and generally relating to child pornography.

3 BY repealing and reenacting, with amendments,
 4 Article – Criminal Law
 5 Section 11–208
 6 Annotated Code of Maryland
 7 (2002 Volume and 2006 Supplement)

8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 9 MARYLAND, That the Laws of Maryland read as follows:

10 **Article – Criminal Law**

11 11–208.

12 (a) A person may not knowingly possess **AND INTENTIONALLY RETAIN** a
 13 film, videotape, photograph, or other visual representation ~~depicting~~ **SHOWING** an
 14 ~~individual~~ **ACTUAL CHILD** under the age of ~~[16]~~ **17** years:

- 15 (1) engaged as a subject of sadomasochistic abuse;
 16 (2) engaged in sexual conduct; or
 17 (3) in a state of sexual excitement.

18 (b) A person who violates this section is guilty of a misdemeanor and on
 19 conviction is subject to:

- 20 (1) for a first violation, imprisonment not exceeding [1 year] ~~5~~ **2**
 21 **YEARS** or a fine not exceeding \$2,500 or both; and
 22 (2) for each subsequent violation, imprisonment not exceeding [2] ~~10~~ **5**
 23 years or a fine not exceeding [\$5,000] **\$10,000** or both.

24 (c) Nothing in this section may be construed to prohibit a parent from
 25 possessing visual representations of the parent's own child in the nude unless the
 26 visual representations ~~depict~~ **SHOW** the child engaged:

- 27 (1) as a subject of sadomasochistic abuse; or
 28 (2) in sexual conduct and in a state of sexual excitement.

1 **(D) IT IS AN AFFIRMATIVE DEFENSE TO A CHARGE OF VIOLATING THIS**
2 **SECTION THAT THE PERSON PROMPTLY AND IN GOOD FAITH:**

3 **(1) TOOK REASONABLE STEPS TO DESTROY EACH VISUAL**
4 **REPRESENTATION; OR**

5 **(2) REPORTED THE MATTER TO A LAW ENFORCEMENT AGENCY.**

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2007.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.