

# HOUSE BILL 285

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71r1876

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

Introduced and read first time: January 31, 2007

Assigned to: Judiciary

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 13, 2007

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## 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; altering a  
9 certain criminal penalty; and generally relating to child pornography.

10 BY repealing and reenacting, with amendments,  
11 Article - Criminal Law  
12 Section 11-208  
13 Annotated Code of Maryland  
14 (2002 Volume and 2006 Supplement)

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

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**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.



**Article - Criminal Law**

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11-208.

(a) A person may not knowingly possess a film, videotape, photograph, or other visual representation depicting an ~~individual~~ **ACTUAL CHILD** under the age of ~~16~~ ~~17~~ years:

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

(b) 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] ~~5~~ **2** **YEARS** or a fine not exceeding \$2,500 or both; and
- (2) for each subsequent violation, imprisonment not exceeding [2] ~~10~~ **5** years or a fine not exceeding [\$5,000] **\$10,000** or both.

(c) 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 depict the child engaged:

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

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