

HOUSE BILL 685

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CF SB 329

By: **Delegates McComas, Aumann, Bartlett, Costa, DeBoy, Dwyer, Eckardt, Elmore, Frank, George, Haddaway, James, Manno, Shewell, and Stocksdale**

Introduced and read first time: February 8, 2007

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of altering the terms of imprisonment and fines for possessing
4 certain visual representations of individuals under a certain age; changing the
5 offense of possessing certain visual representations of individuals under a
6 certain age from a misdemeanor to a felony; and generally relating to the
7 possession of child pornography.

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

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

15 **Article - Criminal Law**

16 11-208.

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

4 (b) A person who violates this section is guilty of a [misdemeanor] **FELONY**
5 and on conviction is subject to:

- 6 (1) for a first violation, imprisonment not exceeding [1 year] **2 YEARS**
7 or a fine not exceeding [\$2,500] **\$5,000** or both; and
- 8 (2) for each subsequent violation, imprisonment not exceeding [2]
9 **4** years or a fine not exceeding [\$5,000] **\$10,000** or both.

10 (c) Nothing in this section may be construed to prohibit a parent from
11 possessing visual representations of the parent's own child in the nude unless the
12 visual representations depict the child engaged:

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

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