

SENATE BILL 889

E2

2lr3068
CF HB 349

By: **Senator Stone**

Introduced and read first time: February 3, 2012

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Misdemeanor Possession of Child Pornography – Statute of**
3 **Limitations**

4 FOR the purpose of altering the period of time within which a prosecution for
5 misdemeanor possession of child pornography must be instituted after the
6 offense was committed; and generally relating to the statute of limitations for
7 misdemeanor possession of child pornography.

8 BY repealing and reenacting, without amendments,
9 Article – Courts and Judicial Proceedings
10 Section 5–106(a)
11 Annotated Code of Maryland
12 (2006 Replacement Volume and 2011 Supplement)

13 BY adding to
14 Article – Courts and Judicial Proceedings
15 Section 5–106(bb)
16 Annotated Code of Maryland
17 (2006 Replacement Volume and 2011 Supplement)

18 BY repealing and reenacting, without amendments,
19 Article – Criminal Law
20 Section 11–208
21 Annotated Code of Maryland
22 (2002 Volume and 2011 Supplement)

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

25 **Article – Courts and Judicial Proceedings**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 5–106.

2 (a) Except as provided by this section and § 1–303 of the Environment
3 Article, a prosecution for a misdemeanor shall be instituted within 1 year after the
4 offense was committed.

5 **(BB) A PROSECUTION FOR A MISDEMEANOR OFFENSE UNDER § 11–208**
6 **OF THE CRIMINAL LAW ARTICLE SHALL BE INSTITUTED WITHIN 3 YEARS AFTER**
7 **THE OFFENSE WAS COMMITTED.**

8 **Article – Criminal Law**

9 11–208.

10 (a) A person may not knowingly possess and intentionally retain a film,
11 videotape, photograph, or other visual representation showing an actual child under
12 the age of 16 years:

13 (1) engaged as a subject of sadomasochistic abuse;

14 (2) engaged in sexual conduct; or

15 (3) in a state of sexual excitement.

16 (b) (1) Except as provided in paragraph (2) of this subsection, a person
17 who violates this section is guilty of a misdemeanor and on conviction is subject to
18 imprisonment not exceeding 5 years or a fine not exceeding \$2,500 or both.

19 (2) A person who violates this section, having previously been
20 convicted under this section, is guilty of a felony and on conviction is subject to
21 imprisonment not exceeding 10 years or a fine not exceeding \$10,000 or both.

22 (c) Nothing in this section may be construed to prohibit a parent from
23 possessing visual representations of the parent's own child in the nude unless the
24 visual representations show the child engaged:

25 (1) as a subject of sadomasochistic abuse; or

26 (2) in sexual conduct and in a state of sexual excitement.

27 (d) It is an affirmative defense to a charge of violating this section that the
28 person promptly and in good faith:

29 (1) took reasonable steps to destroy each visual representation; or

30 (2) reported the matter to a law enforcement agency.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2012.