

Chapter 316

(Senate Bill 889)

AN ACT concerning

Criminal Law – Misdemeanor Possession of Child Pornography – Statute of Limitations

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

BY repealing and reenacting, without amendments,

Article – Courts and Judicial Proceedings

Section 5–106(a)

Annotated Code of Maryland

(2006 Replacement Volume and 2011 Supplement)

BY adding to

Article – Courts and Judicial Proceedings

Section 5–106(bb)

Annotated Code of Maryland

(2006 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments,

Article – Criminal Law

Section 11–208

Annotated Code of Maryland

(2002 Volume and 2011 Supplement)

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

Article – Courts and Judicial Proceedings

5–106.

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

(BB) A PROSECUTION FOR A MISDEMEANOR OFFENSE UNDER § 11-208 OF THE CRIMINAL LAW ARTICLE SHALL BE INSTITUTED WITHIN ~~3~~ 2 YEARS AFTER THE OFFENSE WAS COMMITTED.

Article – Criminal Law

11-208.

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

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

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

(2) A person who violates this section, having previously been convicted under this section, is guilty of a felony and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$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 show the child engaged:

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

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

- (1) took reasonable steps to destroy each visual representation; or
- (2) reported the matter to a law enforcement agency.

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

Approved by the Governor, May 2, 2012.