

# HOUSE BILL 233

E1

3lr1564  
CF SB 226

---

By: **Delegate Grammer**

Introduced and read first time: January 23, 2023

Assigned to: Judiciary

---

## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Child Pornography – Accessing With Intent to View**

3 FOR the purpose of prohibiting a person from knowingly or intentionally accessing a  
4 certain visual representation of a child under the age of 16 years with intent to view  
5 the visual representation; and generally relating to accessing child pornography with  
6 an intent to view.

7 BY repealing and reenacting, with amendments,

8 Article – Criminal Law

9 Section 11–208

10 Annotated Code of Maryland

11 (2021 Replacement Volume and 2022 Supplement)

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

14 **Article – Criminal Law**

15 11–208.

16 (a) (1) In this section, “indistinguishable from an actual and identifiable child”  
17 means an ordinary person would conclude that the image is of an actual and identifiable  
18 minor.

19 (2) “Indistinguishable from an actual and identifiable child” includes a  
20 computer-generated image that has been created, adapted, or modified to appear as an  
21 actual and identifiable child.

22 (3) “Indistinguishable from an actual and identifiable child” does not  
23 include images or items depicting minors that are:

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 (i) drawings;
- 2 (ii) cartoons;
- 3 (iii) sculptures; or
- 4 (iv) paintings.

5 (b) A person may not knowingly possess and intentionally retain, **OR**  
6 **KNOWINGLY OR INTENTIONALLY ACCESS WITH INTENT TO VIEW**, a film, videotape,  
7 photograph, or other visual representation showing an actual child or a  
8 computer-generated image that is indistinguishable from an actual and identifiable child  
9 under the age of 16 years:

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

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

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

19 (d) Nothing in this section may be construed to prohibit a parent from possessing  
20 visual representations of the parent's own child in the nude unless the visual  
21 representations show the child engaged:

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

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

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

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
29 October 1, 2023.