

HOUSE BILL 436

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8lr2410
CF 8lr2458

By: **Delegates McComas and Waldstreicher**
Introduced and read first time: January 29, 2008
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Possession of Child Pornography – Penalties**

3 FOR the purpose of changing the offense of possession of child pornography from a
4 misdemeanor to a felony; and generally relating to child pornography.

5 BY repealing and reenacting, with amendments,
6 Article – Criminal Law
7 Section 11–208
8 Annotated Code of Maryland
9 (2002 Volume and 2007 Supplement)

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

12 **Article – Criminal Law**

13 11–208.

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

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

18 (2) engaged in sexual conduct; or

19 (3) in a state of sexual excitement.

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 (1) for a first violation, imprisonment not exceeding 2 years or a fine
2 not exceeding \$2,500 or both; and

3 (2) for each subsequent violation, imprisonment not exceeding 5 years
4 or a fine not exceeding \$10,000 or both.

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

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

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

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

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

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

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2008.