

Advice from Attorney General J. Joseph Curran, Jr. to Judge Alan M. Wilner, pp. 4-5 (May 21, 2001). The Criminal Law Article Review Committee calls this substitution to the attention of the General Assembly.

In subsection (c)(1)(ii) of this section, the reference to the "State" is substituted for the former reference to the "State's Attorney" for clarity and consistency within this article.

In subsection (c)(2) of this section, the reference to the "trier of fact" is substituted for the former reference to the "court or jury" for clarity.

In subsection (c)(2)(ii) of this section, the reference to a "representation, or performance" is added for consistency within this section.

Former Art. 27, § 419A(a), which defined "minor", is revised in § 1-101 of this article.

Defined terms: "Distribute" § 11-201

"Knowingly" § 11-201

"Matter" § 11-201

"Minor" § 1-101

"Person" § 1-101

"Sodomasochistic abuse" § 11-201

"Sexual conduct" § 11-201

11-208. POSSESSION OF VISUAL REPRESENTATION OF CHILD UNDER 16 ENGAGED IN CERTAIN SEXUAL ACTS.

(A) PROHIBITED.

A PERSON MAY NOT KNOWINGLY POSSESS A FILM, VIDEOTAPE, PHOTOGRAPH, OR OTHER VISUAL REPRESENTATION DEPICTING AN INDIVIDUAL 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) PENALTY.

A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:

- (1) FOR A FIRST VIOLATION, IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$2,500 OR BOTH; AND
- (2) FOR EACH SUBSEQUENT VIOLATION, IMPRISONMENT NOT EXCEEDING 2 YEARS OR A FINE NOT EXCEEDING \$5,000 OR BOTH.

(C) EXEMPTION.