HOUSE BILL 43

E1 (4lr0744)

ENROLLED BILL

— Judiciary/Judicial Proceedings —

Introduced by ~~Delegate Simmons~~ **Delegates Simmons, Cardin, Frick, Afzali, Arora, Barkley, Cullison, DeBoy, Dwyer, Frush, George, Glenn, Gutierrez, Healey, Kaiser, A. Kelly, Lafferty, McComas, McDonough, Murphy, Niemann, Olszewski, Pena–Melnyk, Reznik, Rudolph, Sophocleus, Stocksdale, Stukes, F. Turner, Weir, McDermott, Arentz, Aumann, Boteler, Cluster, Eckardt, Elliott, Frank, K. Kelly, Krebs, Otto, Parrott, Smigiel, Swain, Valentino–Smith, and Vitale**

Read and Examined by Proofreaders:

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Proofreader.

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Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____M.

_____

Speaker.

CHAPTER _____

AN ACT concerning

Criminal Law – Harassment – Revenge Porn

FOR the purpose of prohibiting a person from ~~knowingly disclosing a certain image or recording of another person whose intimate parts are exposed or who is engaged in a certain act without the consent of the other person and with the intent to cause serious emotional distress~~ intentionally causing serious emotional distress to another by intentionally placing on the Internet a certain reproduction of the image of the other person knowing that the other person did not consent to the placement of the image on the Internet under certain

EXPLANATION: **CAPITALS INDICATE MATTER ADDED TO EXISTING LAW**.

[Brackets**]** indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.

circumstances; *providing that a certain interactive computer service is not liable under this Act for content provided by another person*; establishing penalties for a violation of this Act; defining certain terms; establishing the scope of this Act; and generally relating to harassment.

BY adding to
Article – Criminal Law
Section 3–809
Annotated Code of Maryland
(2012 Replacement Volume and 2013 Supplement)

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

Article – Criminal Law

3–809.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

~~(2) "DISCLOSE" MEANS SELL, MANUFACTURE, GIVE, PROVIDE, LEND, TRADE, MAIL, DELIVER, TRANSFER, PUBLISH, DISTRIBUTE, CIRCULATE, DISSEMINATE, PRESENT, EXHIBIT, ADVERTISE, OR OFFER.~~

~~(3)~~ (2) "INTIMATE PARTS" MEANS THE NAKED GENITALS, PUBIC AREA, BUTTOCKS, OR FEMALE NIPPLE.

~~(4)~~ (3) "SEXUAL CONTACT" MEANS SEXUAL INTERCOURSE, INCLUDING GENITAL–GENITAL, ORAL–GENITAL, ANAL–GENITAL, OR ORAL–ANAL, WHETHER BETWEEN PERSONS OF THE SAME OR OPPOSITE SEX.

(B) *(1)* THIS SECTION DOES NOT APPLY TO:

~~(1)~~ *(I)* LAWFUL AND COMMON PRACTICES OF LAW ENFORCEMENT, THE REPORTING OF UNLAWFUL CONDUCT, OR LEGAL PROCEEDINGS; ~~OR~~ *OR*

~~(2)~~ *(II)* SITUATIONS INVOLVING VOLUNTARY EXPOSURE IN PUBLIC OR COMMERCIAL SETTINGS~~; OR~~

~~(3)~~ ~~*(III)*~~ ~~IMAGES CONCERNING MATTERS OF PUBLIC IMPORTANCE~~.

(2) AN INTERACTIVE COMPUTER SERVICE, AS DEFINED IN 47 U.S.C. § 230(F)(2), IS NOT LIABLE UNDER THIS SECTION FOR CONTENT PROVIDED BY ANOTHER PERSON.

(C) A PERSON MAY NOT ~~KNOWINGLY DISCLOSE A PHOTOGRAPH, FILM, VIDEOTAPE, RECORDING, OR ANY OTHER REPRODUCTION OF THE IMAGE OF ANOTHER PERSON WHOSE INTIMATE PARTS ARE EXPOSED OR WHO IS ENGAGED IN AN ACT OF SEXUAL CONTACT, WITHOUT THE CONSENT OF THE OTHER PERSON AND WITH THE INTENT TO CAUSE SERIOUS EMOTIONAL DISTRESS~~ INTENTIONALLY CAUSE SERIOUS EMOTIONAL DISTRESS TO ANOTHER BY INTENTIONALLY PLACING ON THE INTERNET ~~AN IDENTIFIABLE~~ *A* PHOTOGRAPH, FILM, VIDEOTAPE, RECORDING, OR ANY OTHER REPRODUCTION OF THE IMAGE OF THE OTHER PERSON *THAT REVEALS THE IDENTITY OF THE OTHER PERSON* WITH HIS OR HER INTIMATE PARTS EXPOSED OR WHILE ENGAGED IN AN ACT OF SEXUAL CONTACT:

(1) KNOWING THAT THE OTHER PERSON DID NOT CONSENT TO THE PLACEMENT OF THE IMAGE ON THE INTERNET; AND

(2) UNDER CIRCUMSTANCES IN WHICH THE OTHER PERSON HAD A REASONABLE EXPECTATION THAT THE IMAGE WOULD BE KEPT PRIVATE.

(D) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING ~~1 YEAR~~ 2 YEARS OR A FINE NOT EXCEEDING ~~$500~~ $5,000 OR BOTH.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2014.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.