



THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

February 20, 2024

**Testimony in SUPPORT of Criminal Law – Harassment – Digitally Altered or Generated
Visual Representations**

Summary: HB 1062 makes it a crime to create and distribute deepfakes, which occur when people have their faces digitally manipulated onto sexual material that is then disseminated across the internet by adding language to the Revenge Porn section of Maryland Criminal Law. In addition, this bill creates a cause of action for victims to sue their abusers for damages when this crime has been committed.

Overview: While the term “deepfake” can refer to any video that is digitally manipulated to present disinformation, the vast majority of deepfakes are sexually explicit material—Sensity AI, a research company, tracked deepfakes and found that [90-95% of them are nonconsensual pornography](#). 95% of that figure is nonconsensual pornography of women. Once an image is shared on the internet, fake or not, it is near impossible to find and destroy them.

[Platforms](#), including X, where some images are first shared, have been trying to stop the sharing of the images, including suspending accounts that have posted the content, but users can then repost the images on other platforms, including Reddit, Facebook, and Instagram and even less regulated sites like 4chan.

Though the media has focused on famous women, such as [Taylor Swift](#) being the victim of deepfake porn, celebrities are far from the only victims. [One nonacademic analysis](#) of nearly 100,000 deepfaked videos published online last year found that 98% of all such videos were pornographic, and 99% of those featured in those videos were women.

Doctored images have been used for over a hundred years, only made more accessible by digital imaging software and now whole services dedicated to creating seamless deepfake images and videos. The technology is only going to become more “user friendly” and accessible. Online communities to create deepfakes are thriving, with [some websites charging only \\$30 to create a custom deepfake](#) that the purchaser can then use to traumatize their victim. AI is already part of our culture, and it is likely to become more pervasive at a rapid rate. It is necessary for governments to protect its people against the malicious use of such technology to commit crimes such as those outlined in revenge porn criminal law. As of the moment, though a [bipartisan bill](#) has been introduced, the federal government has yet to set nationwide protections and it is therefore up to the states to update their own criminal law to include the use of current and emerging technology.

Women who are subject to deepfake pornographic videos, much like victims of revenge pornography, [a crime punishable in Maryland by a \\$5,000 fine and/or 2 years' imprisonment](#), can be impacted in a variety of additional ways. Victims can experience professional consequences, including being [unable to continue to work or losing their jobs](#). Images have even been used to [extort money out of victims](#). And victims can suffer detrimental mental health impacts from their likeness being shared in sexually explicit material, including [suicide attempts](#).

Last fall, [New York passed a law](#) which makes sharing nonconsensual sexual images that are deepfaked illegal, with a one-year jail sentence for doing so as well as including a private right of action for damages. In November 2022, [England and Wales outlawed the sharing of pornographic deepfakes](#) in recognition of the harms these actions cause to their victims. The European Union struck a [deal](#) in February 2024 on a similar bill that would criminalize deepfake pornography, as well as online harassment and revenge porn, by mid-2027.

Conclusion: HB 1062 would bring Maryland into the technological present by addressing newly developed technology used to harass, abuse, and exploit innocent victims. The addition of a cause of action also allows for these victims to collect damages and further hold abusers accountable for their criminal actions and take back some of their own agency.

Thank you and I ask for a favorable report on HB 1062.