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The Honorable Luke Clippinger  
Chairman, House Judiciary Committee  
6 Bladen Street  
Annapolis, MD 21401

Dear Chairman Clippinger and Members of the Judiciary Committee:

On behalf of the Maryland State's Attorney's Association, and the Montgomery County State's Attorney's Office, I write in support of HB0145—Criminal Law—Revenge Porn—Visual Representation. I am the Chief of the Special Victims Division for the Montgomery County State's Attorney's Office and supervise the prosecution of sexual assault, domestic violence, child abuse, elder abuse, human trafficking, and sexual exploitation. I also co-chair the Maryland State's Attorneys Association's Special Victims Legislative Subcommittee, and I am a member of the Governor's Family Violence Council.

Section 3-809 currently states:


A person may not knowingly distribute a **visual representation of another identifiable person** that displays the other person with his or her intimate parts exposed or while engaged in an act of sexual activity:

- (1) with the intent to harm, harass, intimidate, threaten, or coerce the other person;
- (2) (i) under circumstances in which the person knew that the other person did not consent to the distribution; or (ii) with reckless disregard as to whether the person consented to the distribution; and
- (3) under circumstances in which the other person had a reasonable expectation that the image would remain private.

The current statute does not define “visual representation” or “another identifiable person.” Under this statutory scheme, the State must prove that the person in the image, *the whole person*, is identified or known. Consequently, the statute provides a loophole for images that include a person's identifiable face paired with an unidentifiable body (and vice versa). These images are also known as “deep fakes.”

My office has been unable to prosecute cases where the victim's head is connected to an unidentifiable naked body that is often in sexually explicit positions. The loophole that the current law provides for abusers must be closed. I urge a favorable report on HB0145.

Sincerely,

  
Debbie Feinstein  
Chief, Special Victims Division  
Senior Assistant State's Attorney