



Working to end sexual violence in Maryland

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Testimony Supporting Senate Bill 360 with Amendments **Lisae C. Jordan, Executive Director & Counsel** March 26, 2025

The Maryland Coalition Against Sexual Assault (MCASA) is a non-profit membership organization that includes the State's seventeen rape crisis centers, law enforcement, mental health and health care providers, attorneys, educators, survivors of sexual violence and other concerned individuals. MCASA includes the Sexual Assault Legal Institute which provides direct legal services for survivors across the State of Maryland. We urge the Judiciary Committee to report favorably on Senate Bill 360 with important technical Amendments.

Senate Bill 360 – Revenge Porn and Deep Fakes – Civil & Criminal Remedies

This bill would address both civil and criminal law regarding “deep fakes.” SB360 would also amend the current “revenge porn” criminal statute to add computer-generated images. The criminal provisions have a technical flaw.

Background

“Revenge Porn” is the abhorrent practice of harming another person by distributing images of their intimate parts or sexual activities without their consent. Often, but not always, this involves former romantic partners who have shared pictures of themselves willingly and one shares the pictures without the consent of the other to harm, harass, intimidate, threaten, or coerce the other person. The advent of AI and more sophisticated computer technology has created new challenges. It is now a simple task to create sexual images of someone that are wholly made up and also indistinguishable from the actual person. These images, referred to as “deep fakes”, can cause significant emotional, reputational, and financial harm.

From the point of view of the person depicted, the harm caused by non-consensual sexual imagery abuse are the same whether the image is wholly, partially or completely false. Those viewing the image do not know whether an image is computer-generated or not, and they will make judgements about the person depicted either way. Consider the reactions of a potential employer, a romantic partner, a family member, or others who view these graphic and vulgar images. The harms are real and include practical financial issues, such as losing job opportunities, to serious psychological harms, with some victims even attempted suicide after learning pornographic images were posted.

Civil Remedies

SB360 would create a civil action of per se defamation against those who distribute “deep fake” intimate images of another without their consent. The new civil action would encompass computer-generated sexual images, often called “deep fakes.” As drafted, however, these provisions will not encompass unaltered or consensually altered images. It would be preferable to include all images, but the bill makes the law better even without this amendment.

MCASA strongly supports creating the “per se” remedy because it helps put control into the hands of survivors and removes the need to prove harm. We also very much appreciate that the bill would permit recovery of attorney fees. Without this, there would be substantial barriers to recovery. We suggest the minor technical amendment of adding the ability to recover costs as well as attorney fees.

Criminal Remedies

Senate Bill 360 also includes important improvements to the criminal law by adding deep fakes to the current revenge porn statute, Crim.Law 3-809. **It is critical that both computer-generated images and actual images be encompassed in one provision that can be charged as one crime.** If these crimes are constituted separately, this could have the unintended consequence of forcing victims to provide testimony about very detailed and personal aspects of their body in an effort to prove an image is or is not computer generated. This would add additional trauma for no good purpose.

Amendments needed

MCASA strongly encourages the Committee to amend SB360 to consolidate paragraphs (1) and (2) of subsection (c), §3-809, on SB360, page 4, beginning on line 22 through page 5, line 15. This would make it clear that the provisions regarding actual images and computer-generated images are not separate counts needing separate charging and proof. We note that consolidating these two paragraphs would be similar to the approach used in §11-208 regarding child pornography/child sexual abuse materials.

MCASA believes this could be accomplished by amending the definition of “visual representation” to include both analog and computer-generated images, but defers to Committee Counsel regarding the drafting approach.

In conclusion, MCASA asks the Committee to center the experiences of the people harmed by sexualized deep fakes. The rape crisis centers in our state and MCASA’s Sexual Assault Legal Institute are seeing these cases more and more. Often survivors had no idea that a picture of their naked body was circulating. Some survivors of sex trafficking report that their exploitation was taped and that they now feel they can never put their experience behind them because the images are seen over and over again. Others survivors have reached out because the images are completely false and give the impression that they participate in sexual activities they have never even considered. This is a very real problem made worse by AI and the development of ever more sophisticated software. The civil and criminal law need to catch up with technology and provide victims and survivors with meaningful relief.

**The Maryland Coalition Against Sexual Assault urges the
Judiciary Committee to
report favorably on Senate Bill 360 with important technical Amendments**