



BILL NO: Senate Bill 360 – Cross over
TITLE: Revenge Porn - Civil Action and Reporting Requirement
COMMITTEE: Judiciary
HEARING DATE: March 26, 2025
POSITION: **SUPPORT WITH AMENDMENTS**

The Maryland Network Against Domestic Violence (MNADV) is the state domestic violence coalition that brings together victim service providers, allied professionals, and concerned individuals, for the common purpose of reducing intimate partner and family violence and its harmful effects on our citizens. **MNADV urges the Committee to issue a favorable report on SB 360 with amendments.**

Revenge porn is one of many abusive tactics of power and control present in domestic violence. In one study 71% of victims report that a current or previous romantic partner had posted a nude image.¹ Senate Bill 360 would create a **civil action** of *per se* defamation against a person who distributes “deep fake” intimate images of another without their consent. The new civil action would encompass computer-generated sexual images, often called “deep fakes.” SB360 would also amend the current “revenge porn” **criminal statute** to add computer-generated images.

Revenge porn can be used to threaten a victim, for retaliation, or simply to cause a victim harm. A victim can be coerced into creating an image, the image could have been taken without their consent, or an image could be consensual only for it to be subsequently used to victimize by its distribution without their consent. A victim of revenge porn can experience trauma and psychological harm in addition to economic harm due to the unlawful sharing of images. This bill would create a civil action of *per se* defamation against those who distribute “deep fake” intimate images of another without their consent. As drafted, however, these provisions will not encompass unaltered or consensually altered images. SB360 therefore would also amend the current “revenge porn” criminal statute to add computer-generated images. The potential harm is no less possible for images created by evolving technology. Senate Bill 360 also includes a definition of “deep fakes” which reflects the evolving nature of technology and how victims can be harmed.

“Revenge Porn” often, but not always, 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

¹ <https://www.strangulationtraininginstitute.com/revenge-porn-the-latest-research-and-law-enforcement-efforts/>
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sexual images of someone that are wholly made up and also indistinguishable from the actual person. These images 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 caused 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 for nonconsensual distribution of intimate deep fake images is a way to put control into the hands of survivors. We also very much appreciate that the bill would permit recovery of attorney fees. Without this, there would be substantial barriers to recovery. A minor technical amendment of adding the ability to recover costs as well as attorney fees makes sense.

Senate Bill 360 also includes important improvements to the criminal law by adding deep fakes to the current revenge porn statute, MD Code Ann. Crim. Law §3-809. It is critical that both computer-generated images and actual images be encompassed in one statute. If these crimes are constituted separately (as proposed last session), 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 cause additional trauma for no good purpose.

Therefore, we support the amendment proposed by our sister Coalition, MCASA as follows:

Amendments needed:

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.

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For the above stated reasons, the **Maryland Network Against Domestic Violence** urges a **favorable report on SB 360 with amendment.**

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