

# HOUSE BILL 1062

E1, D3

4lr1767

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By: **Delegate Lopez**

Introduced and read first time: February 7, 2024

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Harassment – Digitally Altered or Generated Visual**  
3 **Representations**

4 FOR the purpose of prohibiting a person from knowingly distributing an intentionally  
5 digitally altered or generated representation of another identifiable person that  
6 displays the other person with his or her intimate parts exposed or while engaging  
7 in an act of sexual activity under certain circumstances; establishing a certain cause  
8 of action for a victim of a violation of this Act; and generally relating to harassment.

9 BY repealing and reenacting, with amendments,  
10 Article – Criminal Law  
11 Section 3–809  
12 Annotated Code of Maryland  
13 (2021 Replacement Volume and 2023 Supplement)

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

16 **Article – Criminal Law**

17 3–809.

18 (a) (1) In this section the following words have the meanings indicated.

19 (2) “Distribute” means to give, sell, transfer, disseminate, publish, upload,  
20 circulate, broadcast, make available, allow access to, or engage in any other form of  
21 transmission, electronic or otherwise.

22 (3) “Harm” means:

23 (i) physical injury;

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (ii) serious emotional distress; or

2 (iii) economic damages.

3 (4) "Intimate parts" means the naked genitals, pubic area, buttocks, or  
4 female nipple.

5 (5) "Sexual activity" means:

6 (i) sexual intercourse, including genital-genital, oral-genital,  
7 anal-genital, or oral-anal;

8 (ii) masturbation; or

9 (iii) sadomasochistic abuse.

10 (b) (1) This section does not apply to:

11 (i) lawful and common practices of law enforcement, the reporting  
12 of unlawful conduct, or legal proceedings; [or]

13 (ii) situations involving voluntary exposure in public or commercial  
14 settings; **OR**

15 **(III) VISUAL REPRESENTATIONS THAT ARE:**

16 **1. DRAWINGS;**

17 **2. CARTOONS;**

18 **3. SCULPTURES; OR**

19 **4. PAINTINGS.**

20 (2) An interactive computer service, as defined in 47 U.S.C. § 230(f)(2), is  
21 not liable under this section for content provided by another person.

22 (c) A person may not knowingly distribute a visual representation, **INCLUDING**  
23 **AN INTENTIONALLY DIGITALLY ALTERED OR GENERATED VISUAL**  
24 **REPRESENTATION**, of another identifiable person that displays the other person with his  
25 or her intimate parts exposed or while engaged in an act of sexual activity:

26 (1) with the intent to harm, harass, intimidate, threaten, or coerce the  
27 other person;

1           (2)   (i)    under circumstances in which the person knew that the other  
2 person did not consent to the distribution; or

3                   (ii)   with reckless disregard as to whether the person consented to the  
4 distribution; and

5           (3)   under circumstances in which the other person had a reasonable  
6 expectation that the image would remain private.

7           (d)   A person who violates this section is guilty of a misdemeanor and on conviction  
8 is subject to imprisonment not exceeding 2 years or a fine not exceeding \$5,000 or both.

9           **(E)   (1)   A PERSON DEPICTED IN A VISUAL REPRESENTATION**  
10 **DISTRIBUTED IN VIOLATION OF THIS SECTION MAY FILE AN ACTION TO RECOVER**  
11 **DAMAGES AND FOR INJUNCTIVE RELIEF.**

12                   **(2)   IN ADDITION TO ANY RELIEF GRANTED UNDER PARAGRAPH (1) OF**  
13 **THIS SUBSECTION, THE COURT MAY AWARD REASONABLE ATTORNEY'S FEES.**

14                   **(3)   THIS SUBSECTION DOES NOT AFFECT ANY LEGAL OR EQUITABLE**  
15 **RIGHT OR REMEDY OTHERWISE PROVIDED BY LAW.**

16           **[(e)] (F)**   A visual representation of a victim that is part of a court record for a  
17 case arising from a prosecution under this section:

18                   (1)   subject to item (2) of this subsection, may not be made available for  
19 public inspection; and

20                   (2)   except as otherwise ordered by the court, may only be made available  
21 for inspection in relation to a criminal charge under this section to:

22                           (i)   court personnel;

23                           (ii)   a jury in a criminal case brought under this section;

24                           (iii)   the State's Attorney or the State's Attorney's designee;

25                           (iv)   the Attorney General or the Attorney General's designee;

26                           (v)   a law enforcement officer;

27                           (vi)   the defendant or the defendant's attorney; or

28                           (vii)   the victim or the victim's attorney.

1           **(G) NOTHING IN THIS SECTION MAY BE CONSTRUED IN A MANNER THAT**  
2 **ABRIDGES OR OTHERWISE LIMITS A PERSON’S RIGHT TO FREE SPEECH UNDER THE**  
3 **UNITED STATES CONSTITUTION OR THE MARYLAND CONSTITUTION OR MARYLAND**  
4 **DECLARATION OF RIGHTS.**

5           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
6 October 1, 2024.