

Department of Legislative Services
 Maryland General Assembly
 2023 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 600 (Delegate Lopez)
 Judiciary

Task Force on Preventing and Responding to Nonconsensual Sexual Imagery

This bill establishes the Task Force on Preventing and Responding to Nonconsensual Sexual Imagery. The Governor’s Office of Crime Prevention, Youth, and Victim Services (GOCPYVS) must provide staff for the task force. Task force members may not receive compensation but are entitled to reimbursement for expenses. By January 1, 2025, the task force must report its recommendations to the Governor and the General Assembly. **The bill takes effect July 1, 2023, and terminates June 30, 2025.**

Fiscal Summary

State Effect: General fund expenditures for GOCPYVS increase by \$67,700 in FY 2024 and \$57,900 in FY 2025. Any expense reimbursements for members of the task force are assumed to be minimal and absorbable with existing budgeted resources. Revenues are not affected.

(in dollars)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	67,700	57,900	0	0	0
Net Effect	(\$67,700)	(\$57,900)	\$0	\$0	\$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Any cost for members of local government to participate in the task force are assumed to be minimal and absorbable within existing resources. Local revenues are not affected.

Small Business Effect: None.

Analysis

Bill Summary: The task force must (1) evaluate how to prevent and respond to nonconsensual sexual imagery while respecting First Amendment rights, as specified, and (2) make recommendations for legislation to address the conduct evaluated.

Current Law: Section 3-809 of the Criminal Law Article (revenge porn) prohibits a person from knowingly distributing 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) under circumstances in which the person knew that the other person did not consent to the distribution or 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.

Violators are guilty of a misdemeanor, punishable by imprisonment for up to two years and/or a \$5,000 maximum fine.

The prohibition does not apply to (1) lawful and common practices of law enforcement, the reporting of unlawful conduct, or legal proceedings or (2) situations involving voluntary exposure in public or commercial settings. An interactive computer service, as defined in 47 U.S. Code § 230(f)(2), is not liable for content provided by another person.

Under 47 U.S. Code § 230(f)(2), an “interactive computer service” is any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.

State Expenditures: General fund expenditures for GOCPYVS increase by \$67,657 in fiscal 2024, which accounts for the bill’s July 1, 2023 effective date. This estimate reflects the cost of hiring one contractual program coordinator to staff the task force and issue the required report. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Contractual Position	1.0
Salary and Fringe Benefits	\$59,983
Operating Expenses	<u>7,674</u>
Total FY 2024 State Expenditures	\$67,657

Future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses and the termination of the contractual position at the end of fiscal 2025.

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State's implementation of the federal Patient Protection and Affordable Care Act.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Governor's Office of Crime Prevention, Youth, and Victim Services; Department of Legislative Services

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