

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 803
Judiciary

(Delegate Pippy, *et al.*)

Criminal Law - Revenge Porn - Computer-Generated Visual Representation

This bill expands the State’s existing prohibition against revenge porn (§ 3-809 of the Criminal Law Article) to prohibit a person from knowingly distributing a “computer-generated visual representation” that is “indistinguishable from another actual and identifiable person” that displays the other person with his or her intimate parts exposed or while engaged in an act of sexual activity. Violators are subject to the existing penalty under § 3-809.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues and expenditures due to the bill’s expanded application of an existing penalty provision.

Local Effect: Potential minimal increase in local revenues and expenditures due to the bill’s expanded application of an existing penalty provision.

Small Business Effect: None.

Analysis

Bill Summary/Current Law:

Definitions and Terms under the Bill

Under the bill, “computer-generated visual representation” includes (1) a visual representation created without using other existing visual representations of a person and

(2) a visual representation created using other existing visual representations of a person without the person's consent.

Under the bill, "indistinguishable from an actual visual representation of the person" means that an ordinary person would conclude that the visual representation is an actual visual representation of the person. It includes a computer-generated visual representation that has been created, adapted, or modified to appear genuine, but does not include images or items depicting a person that are drawings, cartoons, sculptures, or paintings.

Revenge Porn – § 3-809 of the Criminal Law Article

Under current law, § 3-809 of the Criminal Law Article 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. The State may institute a prosecution for a violation of § 3-809 at any time. Violators are guilty of a misdemeanor, punishable by imprisonment for up to two years and/or a \$5,000 maximum fine.

The bill expands the prohibition against revenge porn to include knowing distribution of a computer-generated visual representation that is indistinguishable from another actual and 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 and (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. Violators are subject to the existing penalty under § 3-809.

Under current law, 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.C. § 230(f)(2), is not liable for content provided by another person.

Under current law, a visual representation of a victim that is part of a court record in a case prosecuting revenge porn may not be available for public inspection and, except as otherwise ordered by the court, may only be made available to specified individuals for inspection in relation to a criminal charge for revenge porn. The bill expands this restricted inspection to a computer-generated visual representation of a victim.

Additional Comments: According to the Judiciary, 391 criminal actions (293 in the District Court and 98 in the circuit courts) under § 3-809 of the Criminal Law Article (revenge porn) were filed in the State’s trial courts during fiscal 2024.

Additional Information

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

Designated Cross File: None.

Information Source(s): Kent and Worcester counties; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Department of Public Safety and Correctional Services; Department of Legislative Services

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rh/aad

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