



THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

February 16, 2023

Testimony in SUPPORT of Task Force on Preventing and Responding to Nonconsensual Sexual Imagery

Summary: HB 600 establishes a task force to evaluate two different emerging issues that deal with women’s rights in the digital sphere: cyberflashing, which occurs when someone is sent an unsolicited lewd image, and deepfakes, which occur when people have their faces digitally manipulated onto sexual material that is then disseminated across the internet.

The goal of the task force is to suggest legislation that addresses these issues but still protects First Amendment rights.

Overview: Cyberflashing occurs when a person sends someone else a sexually explicit picture or video, often including an image of their genitalia or other intimate areas.

These sexually explicit images are not just sent to individuals; they can be sent to hundreds of phones at once using the AirDrop feature on iPhones, so unsuspecting commuters or those in other large groups of people can be subject to these images at any time.

According to [research conducted by Bumble](#), nearly half (48%) of women aged 18 to 24 received an unsolicited sexual image in 2021 alone.

Indecent exposure is a crime in Maryland, [punishable by a \\$1,000 fine, 3 years’ imprisonment, or both](#)—however, when these images are shared digitally, there is no such penalty issued, despite the fact that it can be just as disturbing and traumatizing to those who fall victim to it.

These images can be particularly traumatizing for sexual assault survivors, who deserve to exist in public spaces without fear that they will be retraumatized by images they did not consent to receiving.

Likewise, deepfakes also have particularly devastating impacts for those who fall victim to them.

While the term “deepfake” can refer to any video that is digitally manipulated to present disinformation, the vast majority of deepfakes are sexually explicit material—Sensity AI, a research company, tracked deepfakes and found that [90-95% of them are nonconsensual pornography](#). 95% of that figure is nonconsensual pornography of women.

Women who are subject to deepfake pornographic videos, much like victims of revenge pornography, [a crime punishable in Maryland by a \\$5,000 fine and/or 2 years' imprisonment](#), can suffer detrimental mental health impacts from their likeness being shared in sexually explicit material, including [suicide attempts](#). Victims can also suffer professional consequences, including being [unable to continue to work or losing their jobs](#).

In November 2022, [England and Wales outlawed the sharing of pornographic deepfakes](#) in recognition of the harms these actions cause to their victims.

Online communities to create deepfakes are thriving, with [some websites charging only \\$30 to create a custom deepfake](#) that the purchaser can then use to traumatize their victim.

Other states, including [Texas](#) and [Virginia](#), have passed legislation that enforces civil penalties for cyberflashing; however, the Maryland Office of the Attorney General has provided advice that they believe those frameworks applied to Maryland law would be unconstitutional.

This bill establishes a task force with experts to specifically review both cyberflashing and deepfakes with First Amendment rights in mind so that Maryland can have legislation that properly addresses these issues constitutionally.

Please see the additional testimony I have uploaded from Professor Rebecca Delfino at Loyola Law School for further details about the impacts of deepfakes and why the issue requires a taskforce of experts to evaluate.

There is one amendment to the bill, which would add a representative from the Office of the Public Defender to provide additional perspective to the task force.

Conclusion: HB 600 would make Maryland a leader on the issue of preventing nonconsensual sexual imagery by establishing a taskforce of experts to properly study these issues and ensure that any future legislative proposals are constitutionally sound and adequately address all aspects of both cyberflashing and deepfakes.

Thank you and I ask for a favorable report on HB 600.