



Working to end sexual violence in Maryland

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Testimony Supporting Senate Bill 858 with Amendments
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The Maryland Coalition Against Sexual Assault (MCASA) is a non-profit membership organization that includes the State's seventeen rape crisis centers, law enforcement, mental health and health care providers, attorneys, educators, survivors of sexual violence and other concerned individuals. MCASA includes the Sexual Assault Legal Institute which provides direct legal services for survivors across the State of Maryland. We urge the Judiciary Committee to report favorably on Senate Bill 858 with Amendments.

Senate Bill 858 – Revenge Porn and Deep Fakes – Civil Remedies

This bill would create a civil action of per se defamation against those who distribute “deep fake” intimate images of another without their consent. It applies to “deep fakes”, however it is not clear that this would encompass unaltered images falling under the definition of revenge porn.

Revenge Porn is the abhorrent practice of harming another person by distributing images of their intimate parts or sexual activities without their consent. Often, but not always, this 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. Maryland's criminal law was carefully crafted to balance constitutional protections for free speech and the need to prohibit harmful conduct. Senate Bill 858 similarly includes provisions to ensure the constitutionality of the proposed law.

The advent of AI and more sophisticated computer technology creates new challenges. It is not difficult to create sexual images of someone that are wholly made up and also indistinguishable from an actual person. These images can cause significant emotional, reputational, and financial harm.

Senate Bill 858 provides survivors with the ability to seek civil remedies for nonconsensual distribution of intimate deep fake images. MCASA strongly supports this approach because it helps put control into the hands of survivors. Unfortunately, the bill fails to provide for injunctive relief so that courts can, for example, order that images be taken down or that an offender disclose where images are stored. Additionally, the bill does not include awards of attorneys fees and costs in survivor initiated suits. MCASA encourages the Committee to add

these provisions to help ensure survivors have access to the courts and meaningful practical relief.

Senate Bill 858 also includes important improvements to the criminal law, adding deep fakes to the current revenge porn statute. This conflicts with recent choices of the Judiciary Committee to criminalize deep fakes under a different statute with significantly lower penalties. MCASA prefers the Senate approach, however, we recognize and respect the recent actions of the Judiciary Committee and ask that the civil provisions of SB858 be reported favorably even if the criminal provisions are rejected.

**The Maryland Coalition Against Sexual Assault urges the
Judiciary Committee to
report favorably on Senate Bill 858 with Amendments**