BILL NUMBER: HB 663

TITLE: Civil Actions - Sexual Deepfake Representations and Revenge Porn

COMMITTEE: Judiciary

HEARING DATE: February 19, 2025

POSITION: Favorable

Reproductive Justice Maryland supports House Bill 663 in keeping with our mission to champion reproductive justice as a fundamental human right for all Marylanders. We believe that everyone deserves the freedom to make informed decisions about their bodies, health, and futures, free from discrimination, coercion, and barriers. Accordingly, everyone deserves the right to be free from nonconsensual pornography, whether it was created live or fabricated using deepfake technology.

In 2018, the Senate of Maryland unanimously passed Senate Bill 769, which prohibits the nonconsensual distribution of images of another person with their intimate parts exposed or engaged in sexual activity. Senate Bill 769 later unanimously passed in the House of Delegates and became law, codified at Maryland Code, Criminal Law Article § 3-809. The General Assembly in 2018 understood that in the technological environment of the time, nonconsensual pornography posed a threat of grievous harm to survivors of intimate partner violence and others who may be victimized by a person sharing intimate images without their consent.

Seven years later, the threat of victimization via nonconsensual intimate imagery has expanded via the use of deepfake technology. It is now easier than ever to fabricate a pornographic image or video of another person. In fact, it is so easy that children of middle school age have been reported to use it to create highly realistic nonconsensual

pornographic depictions of their peers.[1] There are even entire online marketplaces devoted to deepfakes, allowing creators to harass and humiliate their targets for pecuniary gain. Although many targets are public figures such as entertainers, activists, and politicians, private individuals are at risk as well. Over 95% of those targeted are women.[2]

When the General Assembly unanimously passed Senate Bill 769 in 2018, it did so because it was necessary to protect Marylanders from the distribution of intimate images without their consent. A survivor of this form of abuse faces humiliation, re-victimization, reputational damage, severe emotional distress, and potential professional and social consequences, all at the hands of someone who she likely trusted at one time. With the current advances in technology, it is now possible for these harms to be perpetrated not only by abusive current or former partners, but by literally anyone with a computer and an internet connection. By the same token, it is now possible for anyone, especially women, to be victimized by anyone, even by complete strangers with whom one has never had an intimate relationship. Victims of deepfake abuse face the same negative consequences as if actual nude or pornographic depictions of them had been disseminated, and so the law must protect them accordingly.

Additionally, we are pleased to see that House Bill 663 as written contains provisions for the recovery of attorneys' fees should a plaintiff prevail in a civil action. This, along with the shielding of nonconsensual content from the public record, will make a difference in survivors receiving access to justice. Reproductive Justice Maryland is proud to support House Bill 663 and urges a favorable report.

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[1] Pfefferkorn, R. (2024). *Teens Are Spreading Deepfake Nudes of One Another. It's No Joke*. Scientific American. https://www.scientificamerican.com/article/teens-are-spreading-deepfake-nudes-of-one-another-its-no-joke/

[2] Han, C., Li, A., Kumar, D., & Durumeric, Z. (2024). Characterizing the MrDeepFakes Sexual Deepfake Marketplace. *ArXiv (Cornell University)*. https://doi.org/10.48550/arxiv.2410.11100