



BILL NUMBER: HB 670

TITLE: Civil Actions - Unsolicited Obscene Material

COMMITTEE: Judiciary

HEARING DATE: February 19, 2025

POSITION: Favorable

Reproductive Justice Maryland supports House Bill 670 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, each and every sexual act, whether online or in person, requires the clear and voluntary agreement of all parties involved. This truth is further reflected in Maryland's extant statutory definition of "consent."¹ The unsolicited sending of sexual images, or cyber flashing, inherently lacks affirmative consent and must be addressed by the General Assembly.

As with other forms of sexual harassment, the victims of cyber flashing are predominantly female. In a Pew Research Center study, 57% of women ages 18 to 34 reported having received an unsolicited sexual image or message on dating apps, compared with 28% of men in the same age cohort.² Victims of cyber sexual harassment, including cyber flashing, report increased depression, anxiety, body image dissatisfaction, and trauma.³ It should be noted that some victims of cyber flashing are unable to provide consent at all

¹ MD Code, Criminal Law, § 3-301.1.

² Anderson, M., & Vogels, E. A. (2020, March 6). *Young Women Often Face Sexual Harassment Online – Including on Dating Sites and Apps*. Pew Research Center. <https://www.pewresearch.org/short-reads/2020/03/06/young-women-often-face-sexual-harassment-online-including-on-dating-sites-and-apps/>

³ Durán, M., & Rodríguez-Domínguez, C. (2023). Sending of Unwanted Dick Pics as a Modality of Sexual Cyber-Violence: An Exploratory Study of Its Emotional Impact and Reactions in Women. *Journal of Interpersonal Violence*, 38(5-6), 5236–5261.

because they are minors. A 2021 study found that nearly 76% of girls ages 12 to 18 had received an image of male genitalia via social media apps.⁴

Prior to the widespread adoption of the Internet and smartphones, perpetrators seeking to indecently expose themselves to a stranger or acquaintance would, at minimum, have to leave their homes to do so. Similarly, potential victims would be at risk in public settings, but not in their own homes. Modern technology has permanently changed this state of affairs. Now perpetrators can victimize large numbers of targets simultaneously and instantaneously without ever leaving home, and potential victims are no longer safe from this behavior in their own homes. Cyber flashing is also possible in public settings. Location-based technologies such as AirDrop make it possible for perpetrators to send unsolicited sexual images to any nearby device, without regard to consent or whether recipients are minors. Just as in-person flashing intimidates victims from engaging in public life, so too does cyber flashing intimidate victims from engaging in online discussion. It is a targeted and often gender-based form of harassment which must not be tolerated.

For victims, blocking the sender is insufficient as a remedy. It is self-evident that when a victim blocks a perpetrator, the victimization has already occurred. Further, “spoofing” apps make it easy to simply create a new phone number, and many interactive computer services such as email or social media make it easy to simply make a new account when one account is blocked. To have a chance at effectively putting a stop to this behavior, survivors need legal remedies like what is proposed in House Bill 670.

House Bill 670 will allow victims of cyber flashing to seek damages against perpetrators. While this legislation is novel, it is not without precedent. California has enacted a similar law providing for civil penalties,⁵ while Virginia⁶ and Texas⁷ criminalize cyber flashing. Importantly, House Bill 670 requires that the defendant know or reasonably should know the image or video in question is unwanted. It also incorporates the definition of “obscenity” promulgated by the Supreme Court of the United States in *Miller v. California*.⁸ These provisions ensure that House Bill 670 is Constitutionally sound while achieving its aim of justice for victims of cyber flashing. Additionally, it excludes internet service providers, interactive computer services, and medical professionals transmitting

⁴ Ringrose, J., Regehr, K., & Milne, B. (2021). Understanding and combatting youth experiences of image-based sexual harassment and abuse.

⁵ Cal. Civ. Code § 1708.88.

⁶ Va. Code § 18.2-386.2.

⁷ Tex. Penal Code Ann. § 21.19.

⁸ 413 U.S. 15 (1973).

images for legitimate purposes. This ensures House Bill 670 does not conflict with the federal Communications Decency Act nor create liability for medical professionals acting in good faith.

Additionally, we are pleased to see that House Bill 670 as written contains provisions for the recovery of attorneys' fees should a plaintiff prevail in a civil action. This will make it possible for survivors without the means to pay a retainer for private counsel to gain access to justice. Reproductive Justice Maryland is proud to support House Bill 670 and urges a favorable report.