

# HOUSE BILL 145

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(PRE-FILED)

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By: **Delegates Pippy and Simpson**

Requested: October 5, 2023

Introduced and read first time: January 10, 2024

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Revenge Porn – Visual Representation**

3 FOR the purpose of clarifying what constitutes a visual representation for purposes of a  
4 certain prohibition against distributing a certain visual representation in a certain  
5 manner; and generally relating to visual representations and revenge porn.

6 BY repealing and reenacting, with amendments,

7 Article – Criminal Law

8 Section 3–809

9 Annotated Code of Maryland

10 (2021 Replacement Volume and 2023 Supplement)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
12 That the Laws of Maryland read as follows:

13 **Article – Criminal Law**

14 3–809.

15 (a) (1) In this section the following words have the meanings indicated.

16 (2) “Distribute” means to give, sell, transfer, disseminate, publish, upload,  
17 circulate, broadcast, make available, allow access to, or engage in any other form of  
18 transmission, electronic or otherwise.

19 (3) “Harm” means:

20 (i) physical injury;

21 (ii) serious emotional distress; or

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (iii) economic damages.

2 (4) "Intimate parts" means the naked genitals, pubic area, buttocks, or  
3 female nipple.

4 (5) "Sexual activity" means:

5 (i) sexual intercourse, including genital–genital, oral–genital,  
6 anal–genital, or oral–anal;

7 (ii) masturbation; or

8 (iii) sadomasochistic abuse.

9 (6) **"VISUAL REPRESENTATION" INCLUDES A PHOTOGRAPH, A FILM,  
10 A VIDEO, A DIGITAL IMAGE, A PICTURE, OR A COMPUTER OR COMPUTER–GENERATED  
11 IMAGE OR PICTURE, WHETHER MADE OR PRODUCED BY ELECTRONIC, MECHANICAL,  
12 OR OTHER MEANS.**

13 (b) (1) This section does not apply to:

14 (i) lawful and common practices of law enforcement, the reporting  
15 of unlawful conduct, or legal proceedings; or

16 (ii) situations involving voluntary exposure in public or commercial  
17 settings.

18 (2) An interactive computer service, as defined in 47 U.S.C. § 230(f)(2), is  
19 not liable under this section for content provided by another person.

20 (c) A person may not knowingly distribute a visual representation of another  
21 identifiable person that displays the other person with his or her intimate parts exposed or  
22 while engaged in an act of sexual activity:

23 (1) with the intent to harm, harass, intimidate, threaten, or coerce the  
24 other person;

25 (2) (i) under circumstances in which the person knew that the other  
26 person did not consent to the distribution; or

27 (ii) with reckless disregard as to whether the person consented to the  
28 distribution; and

29 (3) under circumstances in which the other person had a reasonable  
30 expectation that the image would remain private.

1 (d) A person who violates this section is guilty of a misdemeanor and on conviction  
2 is subject to imprisonment not exceeding 2 years or a fine not exceeding \$5,000 or both.

3 (e) A visual representation of a victim that is part of a court record for a case  
4 arising from a prosecution under this section:

5 (1) subject to item (2) of this subsection, may not be made available for  
6 public inspection; and

7 (2) except as otherwise ordered by the court, may only be made available  
8 for inspection in relation to a criminal charge under this section to:

9 (i) court personnel;

10 (ii) a jury in a criminal case brought under this section;

11 (iii) the State's Attorney or the State's Attorney's designee;

12 (iv) the Attorney General or the Attorney General's designee;

13 (v) a law enforcement officer;

14 (vi) the defendant or the defendant's attorney; or

15 (vii) the victim or the victim's attorney.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
17 October 1, 2024.