

**Department of Legislative Services**  
Maryland General Assembly  
2025 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

House Bill 670  
Judiciary

(Delegate Lopez, *et al.*)

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**Civil Actions - Unsolicited Obscene Material**

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This bill, subject to specified exceptions, prohibits a person from knowingly sending by electronic means to another person an image or a video containing “obscene material” that the sender knows or reasonably should know is “unsolicited.” A person who suffers harm as a result of receiving an image or a video in violation of this prohibition may bring an action for economic and noneconomic damages proximately caused by the receipt of the image or video, including damages for emotional distress. If the receipt of the image or video was expressly forbidden by the person bringing an action, the person may additionally seek and be awarded, on request and before the final judgment is rendered, statutory damages (of at least \$1,500 but not more than \$30,000) and punitive damages. A person may also seek and be awarded reasonable attorney’s fees, court costs, injunctive relief, and any other available relief. These remedies are cumulative and may not be construed as restricting any other remedy that is available under law.

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**Fiscal Summary**

**State Effect:** The bill is not expected to materially affect State finances or operations.

**Local Effect:** The bill is not expected to materially affect local government finances or operations.

**Small Business Effect:** Minimal.

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## Analysis

### Bill Summary:

#### *Definitions*

“Obscene material” means material that, taken as a whole:

- an average adult, applying contemporary community standards, would find appeals to the prurient interest;
- depicts or describes sexual conduct in a way that is patently offensive to prevailing standards in the adult community; and
- lacks serious artistic, educational, literary, political, or scientific value.

“Obscene material” includes images or video depicting a person engaging in specified acts or depicting specified exposed body parts.

“Unsolicited” means the recipient has not consented to or has expressly forbidden the receipt of the image or video.

#### *Exceptions*

The bill does not apply to:

- an Internet service provider, a mobile data provider, or an operator of an online or mobile application, to the extent that the entity is transmitting, routing, or providing connections for electronic communications initiated by or at the direction of another person;
- any service that transmits images or audiovisual works, including an on-demand, subscription, or advertising-supported service; or
- a health care provider transmitting an image for a legitimate medical purpose.

### Current Law:

#### *Damages in Civil Actions*

There is no cap on economic damages or punitive damages in Maryland. However, there are caps on noneconomic damages. “Noneconomic damages” means – for personal injury actions – pain, suffering, inconvenience, physical impairment, disfigurement, loss of consortium, or other nonpecuniary injury. “Noneconomic damages” does not include punitive damages.

In any action for damages for personal injury (excluding medical malpractice) in which the cause of action arises on or after October 1, 1994, an award for noneconomic damages may not exceed \$500,000. This limitation increases by \$15,000 on October 1 of each year beginning on October 1, 1995. The increased amount must apply to causes of action arising between October 1 of that year and September 30 of the following year, inclusive. (As of October 1, 2025, this cap will be \$965,000.) This limitation applies in a personal injury action to each direct victim of tortious conduct and all persons who claim injury by or through that victim.

In a jury trial, the jury may not be informed of these limitations on damages. If the jury awards an amount for noneconomic damages that exceeds the applicable limitation, the court must reduce the amount to conform to the limitation.

#### *Revenge Porn – § 3-809 of the Criminal Law Article*

A person may not knowingly distribute a visual representation of another identifiable person that displays the other person with his or her intimate parts exposed or while engaged in an act of sexual activity (1) with the intent to harm, harass, intimidate, threaten, or coerce the other person; (2) under circumstances in which the person knew that the other person did not consent to the distribution or with reckless disregard as to whether the person consented to the distribution; and (3) under circumstances in which the other person had a reasonable expectation that the image would remain private. The State may institute a prosecution for a violation of § 3-809 at any time. Violators are guilty of a misdemeanor, punishable by imprisonment for up to two years and/or a \$5,000 maximum fine.

The prohibition does not apply to (1) lawful and common practices of law enforcement, the reporting of unlawful conduct, or legal proceedings or (2) situations involving voluntary exposure in public or commercial settings. An interactive computer service, as defined in 47 U.S.C. § 230(f)(2), is not liable for content provided by another person. A visual representation of a victim that is part of a court record in a case prosecuting revenge porn may not be available for public inspection and, except as otherwise ordered by the court, may only be made available to specified individuals for inspection in relation to a criminal charge for revenge porn.

#### *Distribution, Exhibition, Importation, and Publication of Obscene Matter – § 11-202 of the Criminal Law Article*

A person may not:

- knowingly send or cause to be sent any obscene matter into the State for sale or distribution;

- knowingly bring or cause to be brought any obscene matter into the State for sale or distribution;
- in the State prepare, publish, print, exhibit, distribute, or offer to distribute any obscene matter; or
- possess any obscene matter in the State with the intent to distribute, offer to distribute, or exhibit.

Violators are guilty of a misdemeanor punishable by imprisonment for up to one year and/or a \$1,000 maximum fine for a first offense or imprisonment for up to three years and/or a \$5,000 maximum fine for a subsequent offense.

A State’s Attorney may maintain an action for an injunction in the circuit court against a person to prevent specified activities related to the obscene matter; statute specifies additional procedures pertaining to these injunctions.

*Sale or Display of an Obscene Item to a Minor – § 11-203 of the Criminal Law Article*

A person may not willfully or knowingly display or exhibit to a minor an item (1) the cover or content of which is principally made up of an “obscene” description or depiction of illicit sex or (2) that consists of an obscene picture of a nude or partially nude figure. A person is also prohibited from willfully or knowingly engaging in the business of displaying, exhibiting, selling, showing, advertising for sale, or distributing these items to a minor.

If a newsstand or other place of business is frequented by minors, the owner, operator, franchisee, manager, or an employee with managerial responsibility may not openly and knowingly display at the place of business an item whose sale, display, exhibition, showing, or advertising is subject to the prohibitions discussed above.

“Obscene” means:

- that the average adult applying contemporary community standards would find that the work, taken as a whole, appeals to the prurient interest;
- that the work depicts sexual conduct, as specified, in a way that is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material; and
- that the work, taken as a whole, lacks serious artistic, educational, literary, political, or scientific value.

Violators are guilty of a misdemeanor punishable by imprisonment for up to one year and/or a \$1,000 maximum fine for a first offense or imprisonment for up to three years and/or a \$5,000 maximum fine for a subsequent offense.

## **Additional Information**

**Recent Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts); Department of Legislative Services

**Fiscal Note History:** First Reader - February 18, 2025  
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