## **HOUSE BILL 544**

E1, E2 4lr1944 CF SB 391

By: Delegates Atterbeary, Crutchfield, Forbes, Grammer, Pasteur, Simpson, Stein, and Toles

Introduced and read first time: January 24, 2024

Assigned to: Judiciary

## A BILL ENTITLED

1	AN ACT concerning		
2 3	Criminal Law – Sexual Extortion, Stalking, and Revenge Porn – Statute of Limitations and In Banc Review		
4	FOR the purpose of providing that the State may institute a prosecution for sexual		
5	extortion, stalking, or revenge porn at any time; providing that, for purposes of the		
6	Maryland Constitution, a person who commits sexual extortion, stalking, or revenge		
7	porn shall be deemed to have committed a misdemeanor whose punishment is		
8 9	confinement in the penitentiary and may reserve a point or question for a certain in banc review; and generally relating to sexual extortion, stalking, and revenge porn.		
10	BY repealing and reenacting, without amendments,		
11	Article – Courts and Judicial Proceedings		
12	Section 5–106(a) and (b)		
13	Annotated Code of Maryland		
14	(2020 Replacement Volume and 2023 Supplement)		
15	BY repealing and reenacting, with amendments,		
16	Article – Criminal Law		
17	Section 3–709, 3–802, and 3–809		
18	Annotated Code of Maryland		
19	(2021 Replacement Volume and 2023 Supplement)		
20	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,		
21	That the Laws of Maryland read as follows:		
22	Article - Courts and Judicial Proceedings		
23	5–106.		

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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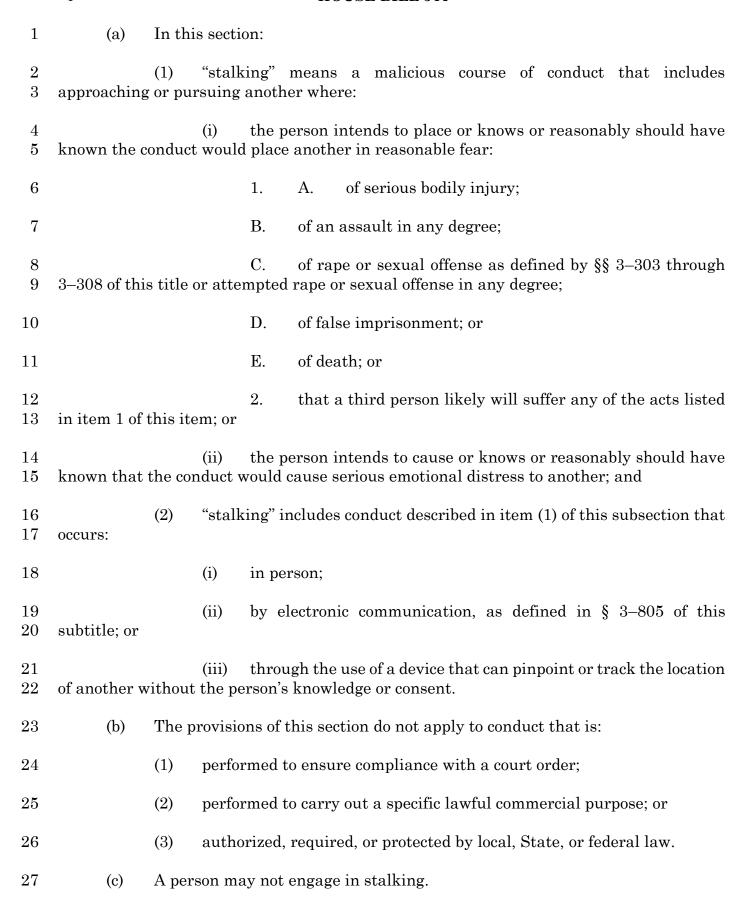
1 Except as provided by this section, § 1–303 of the Environment Article, and § 2 8-1815 of the Natural Resources Article, a prosecution for a misdemeanor shall be 3 instituted within 1 year after the offense was committed. 4 (b) Notwithstanding § 9–103(a)(3) of the Correctional Services Article or any 5 other provision of the Code, if a statute provides that a misdemeanor is punishable by imprisonment in the penitentiary or that a person is subject to this subsection: 6 7 (1) The State may institute a prosecution for the misdemeanor at any time; 8 and For purposes of the Maryland Constitution, the person: 9 (2) 10 Shall be deemed to have committed a misdemeanor whose (i) punishment is confinement in the penitentiary; and 11 12 May reserve a point or question for in banc review as provided 13 under Article IV, § 22 of the Maryland Constitution. Article – Criminal Law 14 3-709.15 16 (a) (1) In this section the following words have the meanings indicated. "Intimate parts" has the meaning stated in § 3–809 of this title. 17 (2)"Sexual activity" has the meaning stated in § 3–809 of this title. 18 (3) 19 (b) A person may not cause another to: 20 engage in an act of sexual activity by threatening to: (1) 21(i) accuse any person of a crime or of anything that, if true, would 22 bring the person into contempt or disrepute; 23(ii) cause physical injury to a person; 24 (iii) inflict emotional distress on a person; 25(iv) cause economic damage to a person; or 26 cause damage to the property of a person; or (v) 27 engage as a subject in the production of a visual representation or performance that depicts the other with the other's intimate parts exposed or engaging in 28

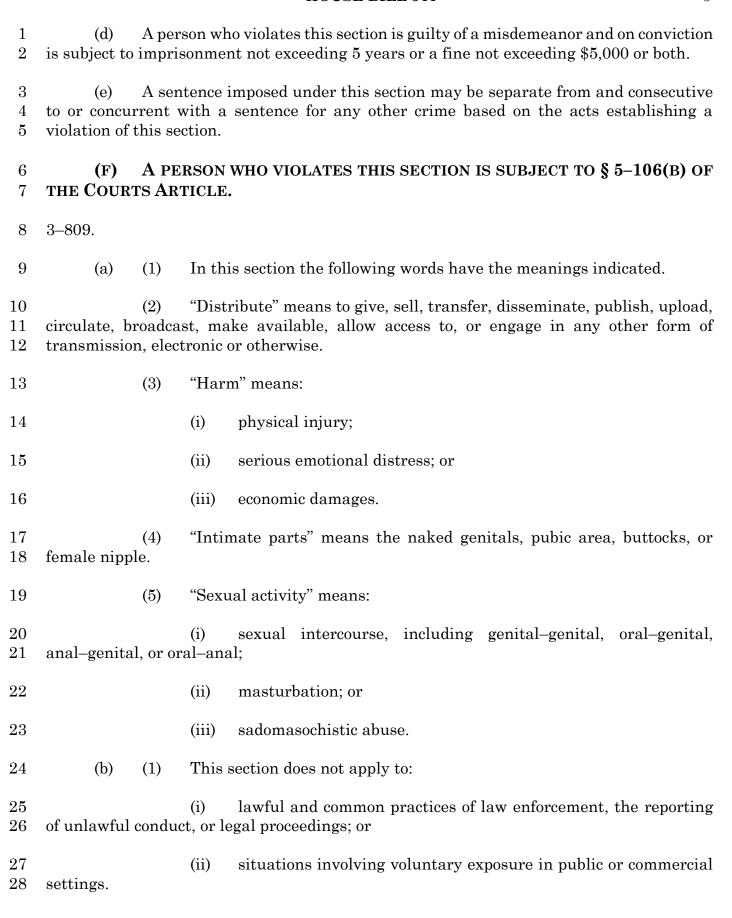
or simulating an act of sexual activity by threatening to:

1 2	bring the person in	(i) nto con	accuse any person of a crime or of anything that, if true, would tempt or disrepute;	
3		(ii)	cause physical injury to a person;	
4		(iii)	inflict emotional distress on a person;	
5		(iv)	cause economic damage to a person; or	
6		(v)	cause damage to the property of a person.	
7 8			no violates this section is guilty of a misdemeanor and on conviction nt not exceeding 10 years or a fine not exceeding \$10,000 or both.	
9 10 11	(d) A sentence imposed under this section may be separate from and consecutive to or concurrent with a sentence for any crime based on the act establishing the violation of this section.			
12 13				
14 15	• •	_	presentation depicting a victim that is part of a court record for a ecution under this section:	
16 17	(1) public inspection;	•	ct to item (2) of this subsection, may not be made available for	
18 19	(2) for inspection in re	_	at as otherwise ordered by the court, may only be made available to a criminal charge under this section to:	
20		(i)	court personnel;	
21		(ii)	a jury in a criminal case brought under this section;	
22		(iii)	the State's Attorney or the State's Attorney's designee;	
23		(iv)	the Attorney General or the Attorney General's designee;	
24		(v)	a law enforcement officer;	
25		(vi)	the defendant or the defendant's attorney; or	
26		(vii)	the victim or the victim's attorney.	

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3-802.





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(vii)

1 An interactive computer service, as defined in 47 U.S.C. § 230(f)(2), is (2) 2 not liable under this section for content provided by another person. 3 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 4 while engaged in an act of sexual activity: 5 6 with the intent to harm, harass, intimidate, threaten, or coerce the (1) 7 other person; 8 (2)(i) under circumstances in which the person knew that the other 9 person did not consent to the distribution; or 10 with reckless disregard as to whether the person consented to the (ii) 11 distribution; and 12 (3)under circumstances in which the other person had a reasonable 13 expectation that the image would remain private. 14 A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 2 years or a fine not exceeding \$5,000 or both. 15 16 A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO § 5–106(B) OF 17 THE COURTS ARTICLE. 18 A visual representation of a victim that is part of a court record for a case arising from a prosecution under this section: 19 20 subject to item (2) of this subsection, may not be made available for (1) 21public inspection; and 22 (2)except as otherwise ordered by the court, may only be made available 23for inspection in relation to a criminal charge under this section to: 24(i) court personnel; 25 a jury in a criminal case brought under this section; (ii) 26 (iii) the State's Attorney or the State's Attorney's designee; 27(iv) the Attorney General or the Attorney General's designee; 28 a law enforcement officer; (v) 29 (vi) the defendant or the defendant's attorney; or

the victim or the victim's attorney.

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