



Commonwealth of the Chesapeake
Office of the Governor
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Executive Order No. 35

TO: House of Delegates of the Chesapeake
Cabinet Secretaries of the Chesapeake
All State Employees

From: BranofRaisin, Governor of the Chesapeake

Date: August 30, 2019

Subject: Addressing Sex Discrimination and other Related Provisions

Section 1. Short Title and Definitions.

- (a) This executive order shall be called "Executive Order Addressing Sex Discrimination and other Related Provisions"
- (b) Except as otherwise provided by statute, *see, e.g.*, B.109, "Chesapeake Time's Up Act", pornography is printed or visual material containing the explicit description or display of sexual organs or activity, intended to stimulate erotic rather than aesthetic or emotional feelings.

Section 2. Findings.

Introduction

Pornography poses a threat both to the individuals who consume it and to society at large.

Impact of Pornography on Individuals

Pornography has serious adverse impacts on the individuals who consume it. According to one meta-analysis of 46 published studies found “clear evidence confirming the link between increased risk for negative development when exposed to pornography;” specifically, “exposure to pornographic material puts one at increased risk for developing sexually deviant tendencies, committing sexual offenses, experiencing difficulties in one’s intimate relationships, and accepting the rape myth.” Paolucci et al., [A Meta-Analysis of the Published Research on the Effects of Pornography](#) demonstrates this.

Pornography also harms those who participate in it. The pornography industry is deeply misogynistic and exploitative, especially to women. See, e.g., *In Harm’s Way: The Pornography Civil Rights Hearings* (Mackinnon & Dworkin, eds. 1997). “When a woman is penetrated she is actually penetrated; when a gang rape is simulated on film, she is actually gang raped.” David Rose, *The Ethics and Politics of Pornography* 93 (2013); see also *Only Words*, supra at 15 (“In pornography, women are gang raped so they can be filmed . . . It is for pornography . . . that women are hurt and penetrated, tied and gagged, undressed and genitally spread and sprayed with lacquer and water so sex pictures can be made. Only for pornography are women killed to make a sex movie It is unnecessary to do any of these things to express, as ideas, the ideas pornography expresses. It is essential to do them to make pornography.”). In essence, pornography is evidence of violence against women. MacKinnon, *Pornography as Defamation and Discrimination* (“In order to produce what the consumer wants to see [i.e., violence against women], it must first be done to someone, usually a woman, a woman with few real choices.”).

Impact of Pornography on Society

Widespread availability of and use of pornography also has serious negative social and third-party effects. Pornography is directly linked to discrimination against and subordination of women. See generally, MacKinnon, *Only Words* (1996). In particular, consumption of pornography is directly linked to acceptance of the “rape myth”—i.e., that women enjoy rape—and leads to increased rates of sexual assault and rape. See, e.g., Paolucci et al., supra; Allen et al., [Exposure to Pornography and Acceptance of Rape](#)

Myths. Many women have testified to the link between pornography and sexual assault. See, e.g., *In Harm's Way: The Pornography Civil Rights Hearings* (Mackinnon & Dworkin, eds. 1997). They talked about a husband who “force[d] pornography on his wife and use[d] it to pressure her into sex acts she [did] not want”; a brother who “[held] up pornography magazines as his friend gang-rape[d] his sister, making her assume the poses in the materials, turning her as they turn the pages”; and on and on.

Pornography is a scourge upon society and a harm to individuals.

Section 3. Provisions

- (a) The government of the Commonwealth will treat the production and distribution of pornography as a form of sex discrimination. As a result:
 - (i) No agency may contract with any entity or individual that discriminates on the basis of sex, including any entity or individual involved in the production or distribution of pornography;
 - (ii) Pornography, and any website where pornography is available or accessible, shall not be accessible from any computer under the possession, custody, or control of the Commonwealth;
 - (iii) No person who produces or distributes pornography for profit shall be employed by the government of the Commonwealth;
 - (iv) The purposeful viewing or access of pornography by any Commonwealth employee in the workplace, except where done for the purpose of law enforcement or regulation, is hereby deemed as creating a hostile work environment on the basis of sex and shall be a terminable offense. Allegations of violations of this policy shall be brought to the attention of the Office of Equal Employment Services of the Department of Human Resource Management. No Commonwealth employee shall take retaliatory action against any person making such allegations.
 - (v) The Division of Human Rights of the Office of the Attorney General of the Commonwealth is directed to enforce B. 109, the “Chesapeake Time’s Up Act” and all other relevant anti-discrimination and civil rights statutes against any person or entity engaged in sex discrimination, including but not limited to any employer that requires employees to view or participate in pornography or sexual intercourse as a term or condition of employment.
- (b) State law enforcement is directed to treat the production of pornography as a form of prostitution and/or commercial sexual misconduct, in violation of Code of Virginia § 18.2-346, and to arrest and prosecute offenders accordingly.

- (c) The government of the Chesapeake will exercise its prosecutorial discretion not to enforce any intellectual property interest in material that is the by-product of sex discrimination, including but not limited to pornography.
- (d) The Commonwealth's Department of Health and Human Services is directed to allocate appropriate resources as deemed appropriate for the purpose of further study of the impact of pornography on society and on the individual.

Section 4. Legal Basis

The legal basis for this directive is drawn from the following statutes, provisions, and precedent:

- (a) B. 109, the "Chesapeake Time's Up Act," which prohibits the production of pornography within the Commonwealth and declines to recognize any intellectual property in pornography within the Commonwealth;
- (b) [Article V, Section 7, of the Commonwealth Constitution](#);
- (c) Code of Virginia § 18.2-346;
- (d) Executive Order Number Sixty-One (2017) - Equal Opportunity, issued by Governor Terry McAuliffe of the former state of Virginia;
- (e) [Executive Order Number One](#) (2018) - Equal Opportunity, issued by Governor Ralph S. Northam of the former state of Virginia; and
- (f) Any and all other relevant statutory, constitutional, or other authority supporting this Directive.

Section 5. Enactment Clause

- (a) This Directive takes effect immediately as of the date of the Governor's signature
- (b) Should any section, subsection, or other part of this Directive be found unconstitutional, the remainder of this Directive shall remain in full force and effect.

Signed,

BranofRaisin

BranofRaisin

Governor of Chesapeake

Written by /u/Dewey-Cheatem, esq.

Counsel Pro Tempore for the Commonwealth