

HB1425_JUD_Morgan_FAV.pdf

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**HB 1425 – Criminal Law – Identity Fraud – Artificial Intelligence and Deepfake
Representations
FAVORABLE
House Judiciary Committee
March 11, 2025**

Good afternoon, Chairman Clippinger and Members of the House Judiciary Committee. My name is Karen Morgan, and I serve on the Executive Council for AARP Maryland. Representing nearly 850,000 members, AARP Maryland is one of the largest membership-based organizations in the state. We thank Delegate Wilson for sponsoring this important legislation.

AARP is a nonpartisan, nonprofit organization dedicated to empowering people to live their best lives. We advocate on key issues affecting families, including health care, financial security, retirement planning, and protection from financial abuse.

HB 1425 would specifically criminalize the intentional, unauthorized use of artificial intelligence and deepfake representations to cause financial or other harms. The bill would make a convicted perpetrator subject to maximum prison sentences of 5 to 10 years and/or maximum fines of \$10,000 to \$15,000, depending on the number of victims harmed. It would allow victims to bring civil suit against the criminals who commit these acts. In the courts, the bill also authorizes the imposition of injunctive or other appropriate relief.

AARP Maryland supports HB 1425 because, quite simply, Maryland citizens need help. We are inundated with reports of data breaches, spam emails, spam texts, and spam phone calls. We know that just trying to communicate with family friends – especially through social media, could make us subject to the harvesting and weaponization of our images as well as our personal information. Data brokers are legally authorized to scrape all kinds of personal information – even Social Security numbers – and bundle them for sale to anyone who wants to buy them.

As consumers, we have very little control over the collection of our images and information. But if someone decides to use that information to cause financial or other harm, at least that criminal would be subject to significant criminal penalties under this bill. HB 1425 is important because it anticipates the use of technology to steal money.

We are all familiar with the “grandparent scam” where a crook contacts a person and tells them that their grandchild is in desperate trouble and the only way to help them is to immediately “send money”. We’ve heard enough about this scam to be skeptical about a strange voice on the phone. But what if the voice is an exact replica of the grandchild’s voice? What if a video is created that portrays the grandchild in serious trouble – being carted off in handcuffs under police escort, for example? While the extent to which these kinds of deepfakes are happening is unclear at this time,

we know that they can happen. Maryland citizens are an enticing target for identity theft criminals. In 2023, Maryland ranked 11th in the nation for reported identity fraud incidents, according to the Federal Trade Commission. AARP research indicates that reported incidents are only a fraction of all the identity theft crimes that occur because people are reluctant to report when they are victimized by these criminals.

Given the widespread use of artificial intelligence (AI) and deepfake representations, we believe that designation of this new crime as a felony is appropriate. It is also appropriate to make these criminals subject to civil suit so that victims can take some action to at least try to recover what has been wrongfully taken from them. These types of crimes strike at the core of everything we value and hold dear. The response of the criminal justice system should reflect the impact of these types of crimes.

Frankly, we need more tools against perpetrators who use AI to scam or fraud Marylanders. HB 1425 provides additional enforcement remedies. AARP believes **that policy makers should provide privacy protections while enabling meaningful innovation and data-driven decision-making**—data privacy and security laws and regulations should provide meaningful data privacy and security consumer protections. In addition, AARP believes it is:

- **Imperative to safeguard consumer choice and control**—consumers should control the extent to which their personal information may be collected, analyzed, shared, and sold.
- **Ensure heightened protections for sensitive data**—data that are sensitive and pose significant risk to the consumer if disclosed should receive heightened privacy and security protections.
- **Promote privacy and security by design**—privacy and security protections should be embedded into products and services.
- **Foster transparency**—organizations should provide accurate and understandable information to consumers about their privacy and security practices.
- **Ensure accountability**—privacy and security laws and regulations should include robust enforcement mechanisms to ensure compliance.

AARP Maryland respectfully requests that the House Judiciary Committee issue **a favorable report on HB 1425**. For any questions, please contact Tammy Bresnahan, Director of Advocacy for AARP Maryland, at tbresnahan@aarp.org or **410-302-8451**.

Testimony in support of HB1425 - Criminal Law - Id

Uploaded by: Richard KAP Kaplowitz

Position: FAV

HB1425_RichardKaplowitz_FAV

03/11/2025

Richard Keith Kaplowitz Frederick,
MD 21703-7134

TESTIMONY ON HB1425 - Favorable

Criminal Law - Identity Fraud - Artificial Intelligence and Deepfake Representations

TO: Chair Clippinger, Vice Chair Bartlett, and members of the Judiciary Committee

FROM: Richard Keith Kaplowitz

My name is Richard Kaplowitz. I am a resident of District 3, Frederick County. I am submitting this testimony in support of HB1425 - Criminal Law - Identity Fraud - Artificial Intelligence and Deepfake Representations

This bill offers protection to victims of the perversion of use of technology to create a false identity in order for a criminal impersonation and victimization of an individual.

The bill accomplishes this goal by prohibiting a person from utilizing certain personal identifying information or engaging in certain conduct in order to cause certain harm. It enforces this control by prohibiting a person from using certain artificial intelligence or certain deep-fake representations for certain purposes. Finally, it attaches penalties to illegal conduct through providing that a person who is the victim of certain conduct may bring a civil action against a certain person. Victims will be provided avenues to recover damages from the miscreant who victimized them via technology.

I respectfully urge this committee to return a favorable report on HB1425.

OSPSupportHB1425.pdf

Uploaded by: Sarah David

Position: FAV

STATE OF MARYLAND

CHARLTON T. HOWARD III

State Prosecutor

SARAH R. DAVID

Deputy State Prosecutor

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SUPPORT FOR HB 1425

Mr. Chairman and Members of the Judiciary Committee:

We are writing to express the support of the Office of the State Prosecutor for House Bill 1425. The Office of the State Prosecutor is tasked with enforcing political corruption and police misconduct cases throughout Maryland and believes that this legislation will help address the challenges artificial intelligence presents to the integrity of the electoral process as well as ensuring that people's identity is not manipulated using technology to defraud the public.

The Office of the State Prosecutor

The Office of the State Prosecutor is an independent agency within the Executive Branch of government. The Office is tasked with ensuring the honesty and integrity of State government and elections by conducting thorough, independent investigations and, when appropriate, prosecutions of criminal conduct affecting the integrity of our State and local government institutions, officials, employees, and elections.

HB 1425- Criminalizing the use of artificial intelligence

HB 1425 alters Maryland's existing identity theft statute to include the use of artificial intelligence and deep fake technology. This uses the same theory of identity theft with the criteria being that this technology is indistinguishable from an identifiable human being and that it was crafted with that intent. It is important to note that the requirement is that the person has to have fraudulent intent, there is no consent from the person, and there is intent to cause harm.

The crime is a felony not only due to the serious adverse ramifications using artificial technology causes but also because of the time and resources required for law enforcement to investigate the source of the technology. Discovering who committed the act often takes more than a year by the time the data is analyzed (especially if it is not known who created the deepfake). It is also a way to manipulate public information in a way that can impact people's lives, especially the lives of young people, in a very negative way. Cases in Maryland have included faking the voice of a high school principal to make the community believe he made antisemitic and racist remarks and a person manipulating images to look like minors were engaged in sexual activity and sharing it within their school community. These cases are extremely difficult to prosecute under our current laws.

This law is drafted to truly criminalize the identity theft component. The requisite criminal intent would not be met by something satirical or meant to entertain. Rather, by encapsulating

this language in the identity theft statute, it makes it clear that it is not criminalizing the fact the material is artificial, but the intent to make people believe it is not.

We encourage a favorable report on HB 1425.

Sincerely,

CHARLTON T. HOWARD, III
STATE PROSECUTOR

[MD] HB 1425_deepfakes_TechNet.pdf

Uploaded by: margaret durkin

Position: FWA



TECHNET
THE VOICE OF THE
INNOVATION ECONOMY

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March 7, 2025

The Honorable Luke Clippinger
Chair
House Judiciary Committee
Maryland House of Delegates
100 Taylor House Office Building
6 Bladen Street, Annapolis, MD 21401

RE: HB 1425 (Wilson) - Criminal Law – Identity Fraud – Artificial Intelligence and Deepfake Representations - Favorable with Amendments

Dear Chair Clippinger and Members of the Committee,

On behalf of TechNet, I'm writing to share our comments on HB 1425 related to artificial intelligence and deepfake representations.

TechNet is the national, bipartisan network of technology CEOs and senior executives that promotes the growth of the innovation economy by advocating a targeted policy agenda at the federal and 50-state level. TechNet's diverse membership includes dynamic American businesses ranging from startups to the most iconic companies on the planet and represents over 4.5 million employees and countless customers in the fields of information technology, artificial intelligence, e-commerce, the sharing and gig economies, advanced energy, transportation, cybersecurity, venture capital, and finance. TechNet has offices in Austin, Boston, Chicago, Denver, Harrisburg, Olympia, Sacramento, Silicon Valley, Tallahassee, and Washington, D.C.

Artificial intelligence has the potential to help us solve the greatest challenges of our time. It is being used to predict severe weather more accurately, protect critical infrastructure, defend against cyber threats, and accelerate the development of new medical treatments, including life-saving vaccines and ways to detect earlier signs of cancer. However, recognizing and addressing the genuine risks associated with AI is crucial for its responsible advancement.

In the context of regulating AI in deepfakes, liability should be solely on the natural person who is the bad actor violating the law. Further, we believe that any state law should align with federal exemptions contained in Section 230 of the federal code. As such, we're requesting the following language be added to HB 1425:

- **“As such terms are defined in 47 U.S.C. § 230, an interactive computer service is not liable for content provided by another person in violation of this act.”**

Thank you for the opportunity to share our comments on HB 1425 and please don't hesitate to reach out with any questions.

Sincerely,

Margaret Durkin

Margaret Durkin
TechNet Executive Director, Pennsylvania & the Mid-Atlantic

MPA HB 1425 Memorandum in Opposition.pdf

Uploaded by: Kathy Banuelos

Position: UNF



MOTION PICTURE ASSOCIATION

HB 1425 Memorandum of Opposition March 7, 2025

The Motion Picture Association, Inc. (“MPA”) respectfully opposes HB 1425 (the “Bill”) and offers proposed changes to the Bill as described herein.¹

The MPA’s members use computer-generated imagery for a wide array of purposes. They recreate historical events. They modify images, video, and audio to enhance news reports, aid viewers and listeners in understanding content, create interesting visual effects, and age and “de-age” actors. Moreover, some of MPA’s members create satire, parody, and comedy, and use altered images and audio for this purpose. It is well-established that these expressions are protected by the First Amendment. *See, e.g., New York Times v. Sullivan*, 376 U.S. 254 (1964); *Hustler Magazine, Inc. v. Falwell*, 485 U.S. 46 (1988).

While the MPA appreciates that there are harmful uses of “deepfake” technologies, which may be appropriately constrained through criminal statutes, efforts to regulate the use of such technologies must be crafted to avoid chilling protected and valuable creative speech and legitimate news coverage. The current draft of the Bill, however, does not offer such protections. Instead, the Bill opens the door for private individuals—including public figures who may be the subject of a digitally-altered rendering—to bring claims against media companies to stop them from publishing content that the individual claims will be “misleading.” For instance, a public figure who learns that they are the subject of a parodic “deepfake” in a movie or TV show, or the subject of a documentary that will use deepfake technology for certain representations within the film, could file a lawsuit to prevent the media from ever being released. This lawsuit may be without merit—as such representations are protected speech, and there may be no “fraudulent intent” in the decision to release the film or TV show—but that may not stop a motivated party from bringing litigation. Without a prosecutor acting as gatekeeper, the individual could rush to court with conclusory allegations of fraudulent intent, even where none exists. This would force a studio or broadcaster to engage in a costly legal battle to protect their First Amendment rights. By permitting such lawsuits to be brought even *before* the media is released, the Bill paves the way for courts to exercise a prior restraint on speech, which is particularly disfavored under the First Amendment. This also imposes substantial practical costs, by disrupting carefully crafted release schedules, marketing plans, and promotional efforts.

¹ The MPA is a not-for-profit trade association founded in 1922 to address issues of concern to the motion picture industry. Since that time, MPA has advanced the business and art of storytelling, protecting the creative and artistic freedoms of storytellers, and bringing entertainment and inspiration to audiences worldwide. The MPA’s member companies are: Netflix Studios, LLC; Paramount Pictures Corporation; Prime Amazon MGM Studios; Sony Pictures Entertainment Inc.; Universal City Studios LLC; Walt Disney Studios Motion Pictures; and Warner Bros. Entertainment, Inc. In addition, several of the MPA’s members have as corporate affiliates major news organizations (including ABC, NBC, and CBS News, and CNN) and dozens of owned-and-operated local television stations with broadcast news operations.

To limit the impact of this Bill to uses of deepfake technology that are akin to identity fraud, and without impairing legitimate First Amendment-protected creative expression, the MPA proposes the following addition to the definitions in the Bill.

(4) “FALSELY DEPICT” MEANS THE USE OR DISTRIBUTION OF A DEEPPAKE REPRESENTATION WITH KNOWLEDGE OF THE FALSITY THE REPRESENTATION AND WITH THE INTENT OF MISREPRESENTING THE AUTHENTICITY OR PROVENANCE OF THE REPRESENTATION.

Additionally, the MPA proposes the following revision to Section (F)(2) to the Bill, which will remove the ambiguous term “mislead,” which has the potential to encompass a wide range of protected speech, including parody and satire.

(2) A PERSON MAY NOT KNOWINGLY, WILLFULLY, AND WITH FRAUDULENT INTENT USE ARTIFICIAL INTELLIGENCE OR A DEEPPAKE REPRESENTATION TO:

(I) IMPERSONATE, FALSELY DEPICT, OR CLAIM TO REPRESENT ANOTHER PERSON WITH THE INTENT TO DEFRAUD, ~~MISLEAD~~, OR CAUSE HARM TO THAT PERSON OR ANY OTHER PERSON;

Additionally, with no express protections for parody, satire, news reporting, and other protected speech, the Bill may force MPA’s members and others to choose between foregoing such digitally-altered representations altogether and defending against costly but meritless lawsuits.

To prevent this chilling effect, the MPA proposes a carveout that expressly exempts the kinds of speech that is protected by the First Amendment. *See Schad v. Borough of Mt. Ephraim*, 452 U.S. 61, 65 (1981) (“Entertainment, as well as political and ideological speech, is protected; motion pictures, programs broadcast by radio and television, and live entertainment, such as musical and dramatic works fall within the First Amendment guarantee.”).

The MPA proposes the following addition to the Bill as section (F)(3):

(3) IT IS NOT A VIOLATION OF SUBSECTION (F)(2) OF THIS SECTION TO CREATE, USE, OR OTHERWISE DISTRIBUTE ANY AUDIO OR VISUAL CONTENT, REGARDLESS OF WHETHER IT IS COMPUTER-GENERATED, THAT RELATES TO A MATTER OF PUBLIC INTEREST, OR THAT IS PARODY, SATIRE, COMMENTARY OR CRITICISM, OR WHICH INVOLVES WORKS OF POLITICAL OR NEWSWORTHY VALUE.

Such categorical exemptions—rather than protections specific to certain kinds of entities or industries—are in keeping with the principles of the First Amendment. And indeed, this language would bring the Bill’s First Amendment protections in line with statutes that have passed regulating deepfakes across the country. *See, e.g., Arizona (Az. Stat. § 16-1024(B))*,² Delaware

² “This section does not apply to . . . satire or parody.”

(Del. Stat. Title 15 § 3145),³ Idaho (Id. Stat. § 18-6606(5)),⁴ New Hampshire (N.H. Rev. Stat. § 638:26-a(IV));⁵ Louisiana (La. Rev. Stat. 14:73.13(C)(1)),⁶ Mississippi (Miss. Stat. § 97-13-47),⁷ and New York (N.Y. Civ. Rts. L. § 52-c(4)).⁸

The MPA understands that the Bill is in part drawn from legislation that was introduced in New Jersey—though the MPA notes that the New Jersey bill is not law (and indeed, the proposal to amend the state’s identity fraud statute has never even been subject to a committee vote). *See* N.J. A. 3912 (2024-2025). In any event, that legislation includes a definition of “falsely depict” comparable to the one proposed by the MPA above.⁹

Finally, the MPA proposes to remove the private right of action in the Bill, striking the new proposed section (H). This will remove a substantial threat of frivolous litigation from individuals who may object to critical news coverage or satirized or parodic representations of them in the media, even if the digital representations at issue are not criminally fraudulent. Removing this provision will provide studios and broadcasters with the necessary assurances that they will not be subject to bad-faith lawsuits, and that they can continue to publish protected speech without fear of being brought into court.

Absent striking the private right of action in its entirety, the MPA proposes limitations on the private right of action that will prevent unconstitutional prior restraints from being imposed on First Amendment-protected content based on frivolous lawsuits. This would include fee-shifting

³ “The prohibition . . . does not apply to . . . (1) A radio or television broadcasting station . . . that broadcasts a deceptive and fraudulent deepfake prohibited by this section as part of a bona fide newscast, news interview, news documentary, or on-the-spot coverage of bona fide news events, if the broadcast clearly acknowledges through content or a disclosure . . . that there are questions about the authenticity of the materially-deceptive audio or visual media, or in cases where federal law requires broadcasters to air advertisements from legally-qualified candidates; . . . (3) An internet website . . . if the publication clearly states that the materially deceptive audio or visual media does not accurately represent the speech or conduct of the depicted individual; (4) Materially-deceptive audio or visual media that constitutes satire or parody.”

⁴ “Subsection (1)(a) of this section shall not apply when: . . . (c) The explicit synthetic media relates to a matter of public interest . . .”

⁵ “This section shall not apply to . . . Any radio or television broadcasting station or network . . . that publishes, distributes or broadcasts a deepfake . . . as part of a bona fide news report, newscast, news story, news documentary or similar undertaking in which the deepfake is a subject of the report and in which publication, distribution, or broadcast there is contained a clear acknowledgment that there are questions about the authenticity of the materials which are the subject of the report [or] A video, audio or any other media that constitutes satire or parody.”

⁶ “‘Deepfake’ does not include any material that constitutes a work of political, public interest, or newsworthy value, including commentary, criticism, satire, or parody, or that includes content, context, or a clear disclosure visible throughout the duration of the recording that would cause a reasonable person to understand that the audio or visual media is not a record of a real event.”

⁷ “This section does not apply to . . . A radio or television broadcasting station that broadcasts any digitization prohibited by subsection (2) of this section as part of a bona fide newscast, news interview, news documentary, or on-the-spot coverage or a bona fide news event [or] Content that constitutes satire or parody.”

⁸ “A person is not liable under this section if (ii) the sexually explicit material is a matter of legitimate public concern, a work of political or newsworthy value or similar work, or commentary, criticism or disclosure that is otherwise protected by the constitution of this state or the United States; provided that sexually explicit material shall not be considered of newsworthy value solely because the depicted individual is a public figure.”

⁹ Other New Jersey proposed legislation that we also understand served as inspiration for the Bill has likewise not been enacted into law, and in some cases involved meaningfully narrower proposals than the Bill. *See* N.J. S 3926 (2022-2023); N.J. A 2818 (2024-2025); N.J. S. 736 (2024-2025).

provisions that would permit defendants to seek reimbursement for costly and frivolous litigations and limitations on injunctive relief courts could issue prior to a hearing.

(H) (1) A PERSON WHO IS THE VICTIM OF AN ACT THAT WOULD CONSTITUTE A VIOLATION OF SUBSECTION (F)(2) OF THIS SECTION MAY BRING A CIVIL ACTION AGAINST THE PERSON OR PERSONS WHO COMMITTED THE ACT IN A COURT OF COMPETENT JURISDICTION.

(2) THE COURT MAY:

(I) ISSUE AN INJUNCTION TO PREVENT OR RESTRAIN AN ACT THAT ~~WOULD CONSTITUTE~~ IS A VIOLATION OF SUBSECTION (F)(2) OF THIS SECTION, PROVIDED THAT NO SUCH INJUNCTION MAY BE ISSUED PRIOR TO THE ACT OF DISTRIBUTION AT ISSUE AND ANY INJUNCTION ISSUED PRIOR TO A FINAL JUDICIAL DETERMINATION ON THE MERITS SHALL BE LIMITED TO THE SHORTEST FIXED PERIOD COMPATIBLE WITH SOUND JUDICIAL RESOLUTION; AND

(II) GRANT ANY OTHER APPROPRIATE RELIEF, INCLUDING ATTORNEYS FEES AND LITIGATION COSTS TO THE PREVAILING PARTY.

The MPA welcomes the opportunity to answer questions and provide additional input on the Bill. Legislators and their staff seeking additional information may contact the MPA's consultants in Annapolis, Nick Manis and John Favazza, at nmanis@maniscanning.com and jfavazza@maniscanning.com.

Sincerely,

Kathy Bañuelos

Kathy Bañuelos
Senior Vice President
State Government Affairs