

Testimony in Support of SB141: Election Law – Election Misinformation, Election Disinformation, and Deepfakes

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Committee: Education, Energy, and the Environment

Introduction

Chair Feldman, Vice Chair Kagan, and members of the Committee, thank you for the opportunity to provide testimony in support of SB141 - Election Law - Election Misinformation, Election Disinformation, and Deepfakes. My name is Ben Yelin, and I serve as the Program Director for Public Policy & External Affairs at the University of Maryland Center for Cyber, Health and Hazard Strategies. Over the past several years, our organization has collaborated with Senator Hester and this committee to develop policies addressing the challenges posed by the rapid advancement of artificial intelligence and deepfakes.

Overview of SB141

SB141 is a straightforward and common-sense measure that would position Maryland as a leader in combating election-related misleading synthetic media. The bill is designed to accomplish two primary objectives:

- Empowering the State Board of Elections: The bill enables the State Board of Elections and its administrators, upon receiving credible reports of election misinformation or disinformation disseminated through synthetic media, to take decisive action. This includes filing for injunctions, correcting false information in the public record, and, in certain cases, pursuing civil suits against those responsible for spreading such information.
- Criminalizing Harmful Use of Deepfakes: SB141 criminalizes the knowing use or distribution of deepfake videos that spread false information about elections. This includes misinformation regarding voting times, methods, or any activity that could impede or alter an individual's decision to cast a ballot.

Scope and Protections

This legislation is narrowly tailored to ensure the protection of First Amendment rights. It does not criminalize falsehoods or misleading statements about a candidate's record, issue positions, or political ideology, as these are protected by the First Amendment. Instead, the bill specifically targets false information about the election process itself, such as providing incorrect election dates or falsely claiming that mail ballots will not be accepted.

Furthermore, deepfakes are only subject to criminal or civil action by the Board of Elections if they do not constitute clear satire, parody, or bona fide news reports. In cases where such media is presented as satire, parody, or legitimate news reporting, there must be a disclosure stating that the content was created using artificial intelligence.

Enhancements and Enforcement

While SB141 shares structural similarities with SB361 proposed in the previous session, updates in the current bill make it both stronger and more enforceable. By authorizing the State Board of Elections to seek injunctions against the spread of damaging election misinformation and disinformation, the bill equips election administrators with essential tools to prevent voters from being misled and to uphold the integrity of the electoral process. The ability for administrators to correct false information in real time ensures that voters receive accurate information promptly, particularly regarding synthetic media encountered on social media platforms.

National Context and Rationale

Our organization has examined how other states regulate the use of deepfakes during political campaigns. Several states, including both traditionally Democratic states like California and Republican states such as Texas and Kentucky, have recognized the necessity of instituting regulations on the dissemination of misleading synthetic media. These actions reflect a shared understanding that a healthy democracy depends on access to accurate information about candidates and their campaigns. With SB141, Maryland has the opportunity to join these states in safeguarding the integrity of its electoral process.

Conclusion

For the reasons outlined above, I respectfully **request a favorable report** on SB141. Thank you for your consideration.