

# HOUSE BILL 1035

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By: **Delegates M. Fisher, Adams, Arentz, Boteler, Chisholm, Clark, Corderman, Impallaria, Malone, Mautz, Miller, Morgan, Otto, Reilly, Rose, Saab, Shoemaker, and Szeliga**

Introduced and read first time: February 8, 2019

Assigned to: Ways and Means

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## A BILL ENTITLED

1 AN ACT concerning

2 **Election Law – Websites – Reporting of Politically Biased Algorithms**

3 FOR the purpose of requiring certain websites that implement certain politically biased  
4 algorithms to file a certain report with the State Board of Elections within a certain  
5 period of time after implementing the politically biased algorithm; requiring certain  
6 websites that implement politically biased algorithms to file certain additional  
7 reports with the State Board at certain times under certain circumstances;  
8 prescribing the contents of certain reports; authorizing the State Board to impose a  
9 civil penalty not exceeding a certain amount on certain websites that fail to file  
10 certain reports; providing for certain matters concerning the civil penalty;  
11 authorizing the State Board to adopt regulations to implement this Act; defining  
12 certain terms; and generally relating to requiring websites to report politically  
13 biased algorithms.

14 BY adding to

15 Article – Election Law

16 Section 13–405.3

17 Annotated Code of Maryland

18 (2017 Replacement Volume and 2018 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
20 That the Laws of Maryland read as follows:

21 **Article – Election Law**

22 **13–405.3.**

23 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 INDICATED.

2 (2) "COVERED WEBSITE" MEANS AN ONLINE SOCIAL NETWORK OR  
3 SEARCH ENGINE THAT HAS 50,000,000 OR MORE UNIQUE MONTHLY UNITED STATES  
4 VISITORS OR USERS FOR A MAJORITY OF MONTHS DURING THE IMMEDIATELY  
5 PRECEDING 12 MONTHS.

6 (3) "POLITICALLY BIASED ALGORITHM" MEANS AN ALGORITHM THAT  
7 IS DESIGNED TO PROMOTE THE SUCCESS OR DEFEAT OF A CANDIDATE, POLITICAL  
8 PARTY, OR POSITION ON A QUESTION AT AN ELECTION BY CAUSING A USER OF A  
9 COVERED WEBSITE TO VIEW CAMPAIGN MATERIAL OR OTHER CONTENT THAT:

10 (I) FAVORS A PARTICULAR CANDIDATE, POLITICAL PARTY, OR  
11 POSITION ON A QUESTION MORE FREQUENTLY THAN CAMPAIGN MATERIAL OR  
12 CONTENT THAT FAVORS THE OPPOSING CANDIDATE, POLITICAL PARTY, OR  
13 POSITION ON A QUESTION; OR

14 (II) DISFAVORS A PARTICULAR CANDIDATE, POLITICAL PARTY,  
15 OR POSITION ON A QUESTION MORE FREQUENTLY THAN CAMPAIGN MATERIAL OR  
16 CONTENT THAT DISFAVORS THE OPPOSING CANDIDATE, POLITICAL PARTY, OR  
17 POSITION ON A QUESTION.

18 (B) (1) A COVERED WEBSITE THAT IMPLEMENTS A POLITICALLY BIASED  
19 ALGORITHM SHALL FILE A REPORT WITH THE STATE BOARD WITHIN 7 DAYS AFTER  
20 IMPLEMENTING THE ALGORITHM.

21 (2) A COVERED WEBSITE SHALL FILE AN ADDITIONAL REPORT ON  
22 EVERY SEVENTH DAY FOLLOWING THE DUE DATE OF THE REPORT REQUIRED UNDER  
23 PARAGRAPH (1) OF THIS SUBSECTION COVERING THE IMMEDIATELY PRECEDING 7  
24 DAYS IF THE COVERED WEBSITE IMPLEMENTED A POLITICALLY BIASED ALGORITHM  
25 DURING THAT PERIOD.

26 (C) EACH REPORT UNDER THIS SECTION SHALL INCLUDE:

27 (1) EACH CANDIDATE, POLITICAL PARTY, OR QUESTION THAT THE  
28 POLITICALLY BIASED ALGORITHM WAS DESIGNED TO PROMOTE OR DEFEAT;

29 (2) THE DATES THAT THE ALGORITHM WAS IN USE;

30 (3) DIGITAL COPIES OF THE CAMPAIGN MATERIAL OR OTHER  
31 CONTENT THAT THE POLITICALLY BIASED ALGORITHM CAUSED USERS TO VIEW;

32 (4) THE NUMBER OF USERS EXPOSED TO CAMPAIGN MATERIAL OR

1 OTHER CONTENT GENERATED BY THE POLITICALLY BIASED ALGORITHM;

2 (5) ANY AMOUNT OF MONEY OR OTHER THING OF VALUE RECEIVED BY  
3 THE COVERED WEBSITE FROM ANOTHER PERSON TO IMPLEMENT THE POLITICALLY  
4 BIASED ALGORITHM; AND

5 (6) ANY OTHER INFORMATION THE STATE BOARD REQUIRES BY  
6 REGULATION.

7 (D) (1) THE STATE BOARD MAY ASSESS A CIVIL PENALTY ON A COVERED  
8 WEBSITE THAT FAILS TO FILE A REPORT REQUIRED UNDER THIS SECTION IN AN  
9 AMOUNT NOT EXCEEDING \$50,000 FOR EACH VIOLATION.

10 (2) A CIVIL PENALTY UNDER PARAGRAPH (1) OF THIS SUBSECTION  
11 SHALL BE:

12 (I) ASSESSED IN THE MANNER SPECIFIED IN § 13-604.1 OF THIS  
13 TITLE;

14 (II) DISTRIBUTED TO THE FAIR CAMPAIGN FINANCING FUND  
15 ESTABLISHED UNDER § 15-103 OF THIS ARTICLE; AND

16 (III) THE JOINT AND SEVERAL LIABILITY OF:

17 1. THE COVERED WEBSITE; AND

18 2. THE PERSON EXERCISING DIRECTION OR CONTROL  
19 OVER THE ACTIVITIES OF THE COVERED WEBSITE.

20 (E) THE STATE BOARD MAY ADOPT REGULATIONS TO IMPLEMENT THIS  
21 SECTION.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
23 October 1, 2019.