E1 5lr1240 CF 5lr3287

By: Senators Hester and Hettleman

Introduced and read first time: January 17, 2025

Assigned to: Judicial Proceedings

## A BILL ENTITLED

2 Forged Digital Likenesses – Distribution – Prohibition

- FOR the purpose of providing that the distribution of a certain forged digital likeness to another constitutes a statement or communication for the purpose of an action for defamation; prohibiting a person from knowingly distributing a certain forged digital likeness under certain circumstances; and generally relating to forged digital likenesses.
- 8 BY adding to

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- 9 Article Courts and Judicial Proceedings
- 10 Section 3–505

AN ACT concerning

- 11 Annotated Code of Maryland
- 12 (2020 Replacement Volume and 2024 Supplement)
- 13 BY adding to
- 14 Article Criminal Law
- 15 Section 8–906
- 16 Annotated Code of Maryland
- 17 (2021 Replacement Volume and 2024 Supplement)
- 18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
- 19 That the Laws of Maryland read as follows:
- 20 Article Courts and Judicial Proceedings
- 21 **3–505.**
- 22 (A) IN THIS SECTION, "FORGED DIGITAL LIKENESS" HAS THE MEANING
- 23 STATED IN § 8-906 OF THE CRIMINAL LAW ARTICLE.

1 2 3	(B) THE DISTRIBUTION OF A FORGED DIGITAL LIKENESS TO ANOTHER CONSTITUTES A STATEMENT OR COMMUNICATION FOR THE PURPOSE OF AN ACTION FOR DEFAMATION.
4	Article - Criminal Law
5	8–906.
6 7	(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.
8 9 10	(2) "FORGED DIGITAL LIKENESS" MEANS A COMPUTER-GENERATED VISUAL REPRESENTATION OF AN ACTUAL AND IDENTIFIABLE INDIVIDUAL OR AUDIO RECORDING OF AN ACTUAL AND IDENTIFIABLE INDIVIDUAL'S VOICE THAT:
11 12 13	(I) HAS BEEN CREATED, ADAPTED, OR MODIFIED TO BE INDISTINGUISHABLE FROM A GENUINE VISUAL REPRESENTATION OR AUDIO RECORDING OF THE INDIVIDUAL;
14 15	(II) MISREPRESENTS THE APPEARANCE, SPEECH, OR BEHAVIOR OF THE INDIVIDUAL; AND
16 17	(III) IS LIKELY TO DECEIVE A REASONABLE PERSON TO BELIEVE THAT THE VISUAL REPRESENTATION OR AUDIO RECORDING IS GENUINE.
18 19	(3) "VISUAL REPRESENTATION" INCLUDES A PICTORIAL OR MOTION PICTURE REPRESENTATION, REGARDLESS OF THE MEDIA USED.
20	(B) THIS SECTION DOES NOT APPLY TO THE DISTRIBUTION OF:
21	(1) A DRAWING;
22	(2) A CARTOON;
23	(3) A SCULPTURE; OR
24	(4) A PAINTING.
25 26	(C) A PERSON MAY NOT KNOWINGLY DISTRIBUTE A FORGED DIGITAL LIKENESS IF THE PERSON:
27	(1) DISTRIBUTES THE FORGED DIGITAL LIKENESS AS GENUINE; AND

- 1 (2) KNOWS OR REASONABLY SHOULD KNOW THE FORGED DIGITAL LIKENESS IS NOT A GENUINE VISUAL REPRESENTATION OR AUDIO RECORDING.
- 3 (D) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR
  4 AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS OR A
  5 FINE NOT EXCEEDING \$1,000 OR BOTH.
- 6 (E) IT IS AN AFFIRMATIVE DEFENSE TO A PROSECUTION UNDER THIS
  7 SECTION THAT THE DEFENDANT TOOK REASONABLE ACTION TO PLACE VIEWERS OR
  8 LISTENERS OF THE FORGED DIGITAL LIKENESS ON NOTICE THAT THE FORGED
  9 DIGITAL LIKENESS WAS NOT GENUINE.
- 10 **(F)** This section may not be construed in a manner that infringes 11 On the right to free speech or of the press as guaranteed by the First 12 Amendment of the United States Constitution or the Maryland 13 Declaration of Rights.
- SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2025.