

TESTIMONY IN SUPPORT OF SB0978- ELECTION LAW - SYNTHETIC MEDIA- DISCLOSURE AND REGULATION

WAYS AND MEANS

MARCH 26, 2024

Chair Atterbeary, Vice Chair Wilkins and members of the Ways and Means Committee, thank you for this opportunity to testify in support of SB0978, Election Law – Synthetic Media – Disclosure and Regulation. My name is Ben Yelin, and I am the Program Director for Public Policy & External Affairs at the University of Maryland Center for Health and Homeland Security. During the interim, our team of legal researchers studied state legislation related to Artificial Intelligence. We were pleased to be able to brief members of the Joint Committee on Cybersecurity, Information Technology and Biotechnology on emerging issues in AI, and how other states were crafting policies to meet these new challenges.

One of our areas of study included looking at state statutes regulating the use of deep fakes during political campaigns. Several states, not just blue States like California, but also red states like Texas and Kentucky have recognized the need to institute regulations and restrictions on the dissemination of deep fakes. These state governments have recognized that a functioning democracy relies on access to accurate information about candidates and campaigns. Because of rapidly advancing technology, deep fakes have become easier to produce, and more convincing than they were even a couple of years ago. It is incumbent upon policymakers to ensure that when someone sees a video of a political figure speaking, that it is, indeed, that political figure and those words that were spoken.

SB0978 would put Maryland at the forefront of this effort. If enacted, this bill would require the incorporation of identification and disclaimer for any deep fake or synthetic video produced for a political campaign. In addition, any entity creating a deep fake for a political campaign would have to submit the unaltered content to the State Board of Elections before any altered content could be released to the public. The State Board of Election could also take an active role in monitoring the use of this content and would have the authority to identify manipulated content and require that such content be clearly labeled as altered or manipulated. The bill also has strong enforcement mechanisms. In addition to civil and criminal penalties, this bill allows any individual harmed by these videos to seek legal damages.

SB0978 represents a balanced approach to regulation that puts guard rails around the use of this technology, while not infringing on anyone's 1st Amendment rights to free speech and expression. The bill is limited to deep fakes used for political campaigns, the restrictions here only apply in the 90 days prior to an election, and there are proper carveouts for the use of these images in bona fide news broadcasts about the campaign.

Based on our research, this bill is commensurate with some of the best practices instituted in states across the country and strikes a proper balance between ensuring the integrity of our elections and maintaining the right to free speech and expression. For these reasons, I respectfully urge a favorable report on SB0978.