

Maryland SB 0361_ Election Deepfake Testimony from

Uploaded by: Ashley Kim

Position: FAV



215 Pennsylvania Avenue, SE • Washington, D.C. 20003 • 202/546-4996 • www.citizen.org

February 24th, 2025

Senate
Maryland
Education, Energy, and the Environment Committee
The Honorable, Brian J. Feldman, Chair
The Honorable, Cheryl C. Kagan, Chair

Dear Members of the Committee:

Public Citizen submits this testimony in strong support of SB 0361.

On behalf of our over 15,800 members and activists in Maryland, Public Citizen encourages the Education, Energy, and the Environment Committee to advance SB 0361, a legislative proposal regulating deepfakes in election communications. Deepfakes are fabricated content (videos, images, or audio) created with the use of generative artificial intelligence (A.I.) that depict a person saying or doing things that they never actually said or did in real life. In an election context, a deceptive and fraudulent deepfake is synthetic media that depicts a candidate or political party with the intent to injure the reputation of the candidate or party or otherwise deceive a voter.

Recent advances in the realm of A.I. have made it such that tools needed to create deepfakes are now widely accessible. Meanwhile, the quality of deepfake technology is improving rapidly, making it harder for the average person to detect a deepfake. Audio deepfakes are already of extremely high quality and video deepfakes can easily convince a casual viewer. In the months ahead, this problem will grow much worse, with technologists expressing concern that soon they will also not be able to identify what is real content versus a deepfake.

The rapid advances in deepfake technology have deeply concerning implications for the elections in the United States. In 2024 we saw deepfakes being used around the world in attempts to undermine elections. Just two days before Slovakia's 2024 elections, an audio deepfake was disseminated on social media. The deepfake fraudulently represented a party leader discussing ways to rig the election¹. It is believed that this deepfake influenced the outcome of the Slovakian election. There was also rampant use of deepfakes in recent major elections in many other countries including Argentina, Turkey, the UK, Moldova, Bangladesh,

¹ Meaker, M. (2023, March 10). Slovakia's Election Deepfakes Show AI Is a Danger to Democracy. Retrieved from Wired: <https://www.wired.co.uk/article/slovakia-election-deepfakes>

and Indonesia^{2,3,4,5,6}. Candidates from both sides created deepfakes of both themselves and their opponents in order to enrich their own reputations and harm those of their opponents.

We saw the use of deepfakes in the United States elections as well last year. Voters in New Hampshire received a robocall from an A.I.- generated audio deepfake of President Joe Biden⁷. The Deepfake had President Biden encouraging voters to not vote in the Presidential Primary Election. Governor Ron DeSantis's presidential campaign disseminated deepfake images of former President Donald Trump hugging Dr. Anthony Fauci, which never happened⁸. A PAC circulated a deepfake of North Carolina candidate for Congress, former Representative Mark Walker, in which he purportedly said that he was "not qualified for the job in Congress"⁹.

Deepfake technology poses a major threat to our democracy and our elections. It is not hard to envision a nightmare scenario where a well-timed fraudulent deepfake swings the outcome of an election.

The rapid development of deepfake technology also threatens to weaken social trust. As deepfakes become more common, it will become more difficult for people to determine what is real and what is fabricated content. Additionally, it will become easier for bad actors to refute

² Nicas, J., & Cholakian Herrera, L. (2023, November 15). Is Argentina the First A.I. Election? Retrieved from The New York Times:
<https://www.nytimes.com/2023/11/15/world/americas/argentina-election-ai-milei-massa.html?smid=nytcor-e-ios-share&referringSource=articleShare>

³ Wilks, A. (2023, May 25). Turkey Elections: Deepfakes, disinformation 'misdirect' voters ahead of runoff. Retrieved from AI-Monitor:
<https://www.ai-monitor.com/originals/2023/05/turkey-elections-deepfakes-disinformation-misdirect-voters-ahead-runoff>

⁴ Verma, P., & Zakrzewski C. (2024, April 23). AI deepfakes threaten to upend global elections. No one can stop them. Retrieved from The Washington Post:
<https://www.washingtonpost.com/technology/2024/04/23/ai-deepfake-election-2024-us-india/>

⁵ De Nadal, L., & Jančárik, P. (2024, August 22). Beyond the deepfake hype: AI, democracy, and "the Slovak case". Retrieved from the Harvard Kennedy School Misinformation Review:
<https://misinforeview.hks.harvard.edu/article/beyond-the-deepfake-hype-ai-democracy-and-the-slovak-case/>

⁶ Bond, S. (2024, December 21). How AI deepfakes polluted elections in 2024. Retrieved from National Public Radio:
<https://www.npr.org/2024/12/21/nx-s1-5220301/deepfakes-memes-artificial-intelligence-elections>

⁷ Seitz-Wald, A., & Memoli, M. (2024, January 22). Fake Joe Biden robocall tells New Hampshire Democrats not to vote Tuesday. Retrieved from NBC News:
<https://www.nbcnews.com/politics/2024-election/fake-joe-biden-robocall-tells-new-hampshire-democrats-not-vote-tuesday-rcna134984>

⁸ Nehamas, N. (2023, June 8). DeSantis Campaign Uses Apparently Fake Images to Attack Trump on Twitter. Retrieved from The New York Times:
<https://www.nytimes.com/2023/06/08/us/politics/desantis-deepfakes-trump-fauci.html?auth=login-google1tap&login=google1tap>

⁹ Mikkelsen, E. (2024, March 1). North Carolina 6th District candidate Mark Walker calls video shared by PAC a 'deepfake'. Retrieved from Fox News:
<https://myfox8.com/news/politics/your-local-election-hq/north-carolina-6th-district-candidate-mark-walker-calls-video-shared-by-pac-a-deepfake/>

real visual or audio evidence of their bad behavior, by claiming it is a deepfake. All of this will serve to undermine public trust in news, information, and our elections.

Deepfakes pose very real and present threats to our democracy. New legislation like SB 0361, which regulates the use of deepfakes in election communications, is critical.

Texas, Minnesota, California, Washington, and 17 other states have already passed legislation regulating the use of deepfakes in elections, and 48 states and D.C. have introduced legislation on this issue across the country¹⁰. This legislation has had broad bipartisan support - with Republicans and Democrats alike introducing these bills to regulate political deepfakes in states across the country. This legislation is also overwhelmingly popular among voters. In a survey conducted by Data for Progress, 80% of voters expressed their concerns with the use of deepfakes of candidates in the upcoming election¹¹.

Public Citizen strongly urges the Education, Energy, and the Environment Committee to move SB 0361 forward in order to put in place much needed regulations to protect the voters, our elections, and our democracy from the harms of deepfakes.

Thank you again for the opportunity to testify in support of SB 0361. I am happy to answer any questions.

Respectfully Submitted,
Ilana Beller
Organizing Manager
Public Citizen
1600 20th Street, NW
Washington, D.C. 20009
(202) 588-1000

¹⁰ Public Citizen. (2023, November 20). Tracker: State Legislation on Deepfakes in Elections. Retrieved from Public Citizen: <https://www.citizen.org/article/tracker-legislation-on-deepfakes-in-elections/>

¹¹ Fairclough II, T., & Blank, L. (2024, February 8). Voters overwhelmingly believe in regulating deepfakes and the use of Artificial Intelligence. Retrieved from Data For Progress: <https://www.dataforprogress.org/blog/2024/2/8/voters-overwhelmingly-believe-in-regulating-deepfakes-and-the-use-of-artificial-intelligence>

Yelin Testimony - SB361 2025.pdf

Uploaded by: Ben Yelin

Position: FAV



TESTIMONY IN SUPPORT OF SB361- ELECTION LAW - INFLUENCE ON A VOTER'S VOTING DECISION BY USE OF FRAUD – PROHIBITION

EDUCATION, ENERGY AND THE ENVIRONMENT

FEBRUARY 26, 2025

Chair Feldman, Vice Chair Kagan, and members of the Ways and Means Committee, thank you for the opportunity to testify in support of SB361 - ELECTION LAW - INFLUENCE ON A VOTER'S VOTING DECISION BY USE OF FRAUD – PROHIBITION.

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 misleading synthetic media. These state governments have recognized that a functioning democracy relies on access to accurate information about candidates and campaigns. Because of rapidly advancing technology, synthetic media such as “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 hears a candidate speaking or observes the candidates’ conduct, the public can be assured it is indeed *that candidate* and that the words and conduct are true and authentic.

SB361 is a simple, common-sense measure that would put Maryland at the forefront of the effort to combat election-related misleading synthetic media. This bill would broaden the definition of election fraud to include the use of synthetic media to depict a candidate in a false or misleading way. The problem this bill seeks to remedy is not theoretical. Last year, during the New Hampshire primary, thousands of voters [received](#) AI-generated robocalls purporting to be from President Biden, instructing them not to vote. Other examples of using artificial intelligence to create a misleading impression of a candidate can be more subtle, but just as harmful. During last year’s Indiana Governor’s race, one of the candidates [released an ad](#) depicting his opponent at a political rally with rallygoers holding signs in the background that read “Ban Gas Stoves.” Of course, no such rally had occurred. The image was digitally altered using artificial intelligence.

These examples highlight the urgency of legislative action to protect the integrity of our elections. SB361 does just that. This bill is narrowly targeted in a way that does not jeopardize Marylanders’ right to free speech or expression and is consistent with approaches taken in other States.

For these reasons, I respectfully urge a favorable report on SB361.

DRM Testimony - Support - SB 361 Influence on Vote

Uploaded by: Braden Stinar

Position: FAV

SENATE EDUCATION, ENERGY, AND THE ENVIRONMENT COMMITTEE

February 26, 2025

SB 361 – Election Law – Influence on a Voter’s Decision By Use of Fraud - Prohibition Position: SUPPORT

Disability Rights Maryland (DRM) is the Protection & Advocacy agency in Maryland, federally mandated to advance the civil rights of people with disabilities. DRM works to increase opportunities for Marylanders with disabilities to be part of their communities through voting by advocating for equal access to the ballot box. DRM supports Senate Bill 361, which aims to prohibit the use of fraud, including synthetic media, to influence or attempt to influence a voter's decision.

As generative AI technology becomes more widespread, so does the risk of misleading or deceptive content about politicians and political activity. This bill aims to protect Marylanders by preventing the use of AI-generated media to create and spread false or misleading narratives. SB 361 would prohibit a person from using AI in a fraudulent manner to influence a voter’s decision. Voters are more concerned than ever with the use of AI technology to influence elections. Polls conducted by Ipsos¹ and YouGov² have shown that 70%-85% of individuals are concerned about the role AI deepfakes and other AI generated content in the spread of misinformation. Though AI technology has become even more accessible to the public in recent years, a study conducted by the Rand Corporation³ has found that 27%-50% of individuals struggle to distinguish between deepfakes and real images or content.

Misleading deepfake content poses a serious threat to Maryland’s most marginalized communities, including people with disabilities. While many are misled by deepfakes, those with fewer resources to verify information—such

¹ <https://www.ipsos.com/en-us/americans-hold-mixed-opinions-ai-and-fear-its-potential-disrupt-society-drive-misinformation>

² <https://today.yougov.com/technology/articles/46058-majorities-americans-are-concerned-about-spread-ai>

³ https://www.rand.org/pubs/external_publications/EP70217.html

as individuals with cognitive disabilities or those who rely on assistive technology—face heightened risks. Additionally, bad actors could deliberately target these communities with politicized disinformation, further restricting their ability to participate fully in the democratic process.

SB 361 provides crucial protections against ongoing efforts to undermine Maryland’s electoral system. It is essential for the General Assembly to prioritize this legislation and ensure that all Marylanders, including those with disabilities, can engage in an electoral process free from misinformation and deception.

For these reasons, we request a favorable report on SB 361. Please do not hesitate to contact me BradenS@DisabilityRightsMD.org or 443-692-2485.

Respectfully submitted,

Braden Stinar, Esq.
Attorney
Disability Rights Maryland

Deepfake Elections Annotated Bibliography.pdf

Uploaded by: Katie Fry Hester

Position: FAV

KATIE FRY HESTER
Legislative District 9
Howard and Montgomery Counties

Education, Energy, and
Environment Committee

Chair, Joint Committee on
Cybersecurity, Information Technology
and Biotechnology



Annapolis Office
James Senate Office Building
11 Bladen Street, Room 304
Annapolis, Maryland 21401
410-841-3671 · 301-858-3671
800-492-7122 Ext. 3671
KatieFry.Hester@senate.state.md.us

THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

Cases of Deepfake Election Fraud

Annotated Bibliography

Dwyer, D., & Henderson, S. (2024, October 18). *AI deepfakes a top concern for election officials with voting underway*. ABC News.

<https://abcnews.go.com/Politics/ai-deepfakes-top-concern-election-officials-voting-underway/story?id=114202574>

Taylor Swift publicly endorsed Kamala Harris on social media during the 2024 presidential election. She contributed her endorsement in part to refute AI images depicting her endorsing President Trump.

Seitz-Wald, A., & Memoli, M. (2024, January 22). *Fake Joe Biden robocall tells New Hampshire Democrats not to vote Tuesday*.

<https://www.nbcnews.com/politics/2024-election/fake-joe-biden-robocall-tells-new-hampshire-democrats-not-vote-tuesday-rcna134984>

During the 2024 presidential democratic primary, a robocall impersonating Joe Biden told thousands of voters not to vote. The bad actor who orchestrated the call has been identified, and the FCC now defines AI robocalls as fraud. This new crackdown on AI does not include images or videos.

Swenson, A., Merica, D., & Burke, G. (2024, June 27). *AI experimentation is high risk, high reward for low-profile political campaigns*. AP.

<https://www.ap.org/news-highlights/spotlights/2024/ai-experimentation-is-high-risk-high-reward-for-low-profile-political-campaigns/>

An AI video targeted incumbent mayor Adrian Perkins of Shreveport, Louisiana, during his reelection campaign. The video superimposed Perkins' face on an actor appearing to be reprimanded by a school principal. Though there was a disclaimer, it disappeared after about three seconds. Mayor Perkins blamed his electoral loss in part on the fabricated video.

KATIE FRY HESTER
Legislative District 9
Howard and Montgomery Counties

Education, Energy, and
Environment Committee

Chair, Joint Committee on
Cybersecurity, Information Technology
and Biotechnology



Annapolis Office
James Senate Office Building
11 Bladen Street, Room 304
Annapolis, Maryland 21401
410-841-3671 • 301-858-3671
800-492-7122 Ext. 3671
KatieFry.Hester@senate.state.md.us

THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

Swenson, A. (2024, July 29). *A parody ad shared by Elon Musk clones Kamala Harris' voice, raising concerns about AI in politics.* AP.

<https://apnews.com/article/parody-ad-ai-harris-musk-x-misleading-3a5df582f911a808d34f68b766aa3b8e>

In July, the owner of X, Elon Musk, published a video on his social media that included an AI-generated voiceover of Kamala Harris coining herself as a DEI hire. The video was viewed by millions of users before Musk clarified that it was a parody.

Devine, C., O'Sullivan, D., & Lyngaas, S. (2024, February 1). *A fake recording of a candidate saying he'd rigged the election went viral. Experts say it's only the beginning.* CNN.

<https://www.cnn.com/2024/02/01/politics/election-deepfake-threats-invs/index.html>

Cases of deepfake are not just occurring domestically but also internationally. Days before an election between a pro-NATO candidate and a candidate sympathetic to Moscow, a deepfake audio recording was released that depicted the NATO-aligned candidate boasting about how he rigged the upcoming election.

Ulmer, A., & Tong, A. (2023, June 8). *With apparently fake photos, DeSantis raises AI ante.* Reuters.

<https://www.reuters.com/world/us/is-trump-kissing-fauci-with-apparently-fake-photos-de-santis-raises-ai-ante-2023-06-08/>

During the Republican primary for the 2024 presidential election, candidate Ron DeSantis spread an AI-generated image depicting his then-opponent Donald Trump and Dr. Fauci, the top US scientist during the COVID-19 pandemic, intimately hugging and kissing.

Hester_Sb361_Election Fraud Testimony.pdf

Uploaded by: Katie Fry Hester

Position: FAV

KATIE FRY HESTER
Legislative District 9
Howard and Montgomery Counties

Education, Energy, and
Environment Committee

Chair, Joint Committee on
Cybersecurity, Information Technology
and Biotechnology



Annapolis Office
James Senate Office Building
11 Bladen Street, Room 304
Annapolis, Maryland 21401
410-841-3671 • 301-858-3671
800-492-7122 Ext. 3671
KatieFry.Hester@senate.state.md.us

THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

**Testimony in Support of SB 0361 – Election Law – Influence on a Voter’s Voting Decision
By Use of Fraud – Prohibition**

February 26, 2025

Chairman Feldman, Vice-Chair Kagan, and members of the Education, Energy, and the Environment Committee:

Thank you for your consideration of SB 0361 – Election Law – Influence on a Voter’s Voting Decision By Use of Fraud – Prohibition, which aims to classify AI-generated materials created to influence a voter’s decision in an election as fraud. Last year, you heard a different version of this bill, SB 978, which passed out of this committee but ultimately did not move out of the House. Over the interim, we worked with State Administrator of Elections Jared Demarinis to make improvements to the bill, which is crossfiled by Delegate Feldmark.

As you know, election interference has become increasingly problematic as artificial intelligence grows more accessible. Synthetic pictures, videos, and audio recordings produced by AI technology empower social media trolls to spread deceiving content about electoral candidates online. The rise of deepfakes spread to the electorate during election cycles has created distrust in what is news and what is not.

In the most recent election cycle, we have seen the use of AI-generated content to dissuade people from voting for certain candidates. In September, Taylor Swift took to social media to endorse candidate Kamala Harris, in part to disprove deepfake content that falsely depicted her supporting Donald Trump.¹ In another instance, Elon Musk shared a video containing an AI-generated voice of Kamala Harris calling herself a “diversity hire” to his X account.² Recently, the FCC has declared the use of AI-cloned voices in robocall scams illegal, but this only protects tele-communications—not cloned voices on social media.

¹<https://abcnews.go.com/Politics/ai-deepfakes-top-concern-election-officials-voting-underway/story?id=114202574>

² <https://apnews.com/article/parody-ad-ai-harris-musk-x-misleading-3a5df582f911a808d34f68b766aa3b8e>

[Today, over 20 states have laws on the book to address deceptive deep fakes in elections](#)³ (Figure 1). For example:⁴

- Texas – In 2019, Texas made it a criminal offense to create a fabricated video with the intent to harm a candidate or influence the outcome of an election.
- New Mexico – A bill passed in February of 2024 made it a criminal act to knowingly distribute “materially deceptive media” within 90 days of an election without proper disclaimers.
- Oregon – In 2024, lawmakers passed a bill requiring synthetic media created to influence an election must disclose that it is AI-generated.

SB 361 takes a firm stance against deepfake content created to harm or influence elections. Rather than requiring a publisher of synthetic media to disclose its AI-generated content, this bill classifies synthetic media used to influence a person’s voter behavior as fraud.

Specifically, this bill:

- Prohibits a person from using fraud to influence a voter’s voting decision.
- Defines “fraud” to include the use of synthetic media.
- Defines “influence” to include the use of pressure, deception, trickery, or authority to incite action or to change the behaviors of another individual.
- Clearly defines “synthetic media” as a realistic image, video, or audio recording created or manipulated with the use of generative artificial intelligence to depict a real candidate, the speech, and/or the conduct of a candidate to produce a fundamentally different understanding or impression of an individual.

Last year’s bill took on all digitally manipulated content used on political campaigns and required the content be labeled as altered. This year’s bill takes a different approach: defining the use of deceptive deepfakes in elections as a form of voting fraud.

In summary, as AI becomes more sophisticated and prevalent in everyday life, we must protect against its capability to serve as a tool for misinformation. This bill is an essential step towards protecting our elections against misinformation and maintaining trust in our system of government. For these reasons, I respectfully request a favorable report on SB 0361.

Sincerely,

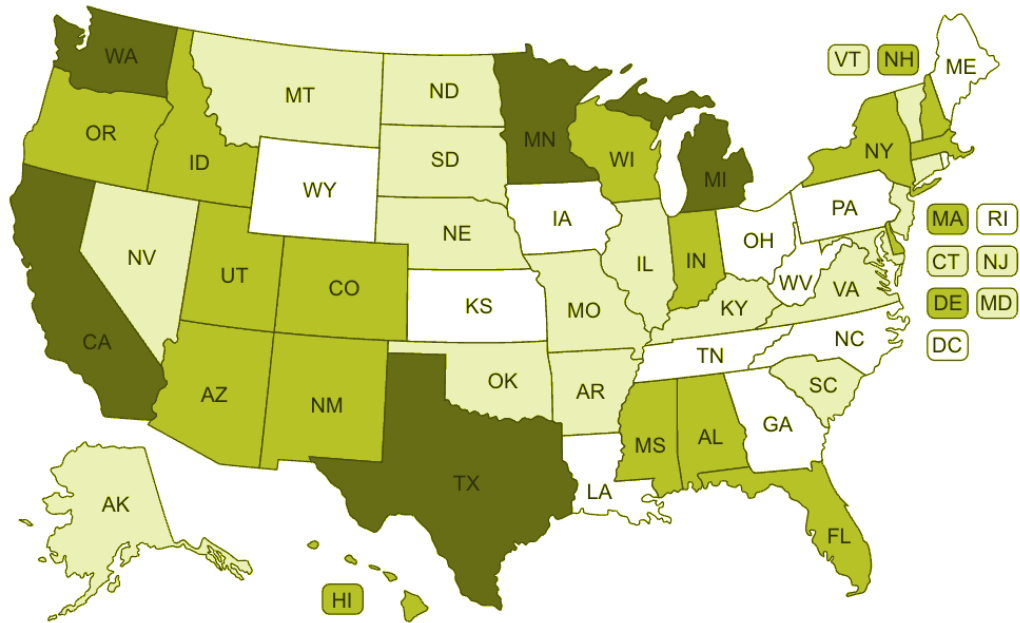


Senator Katie Fry Hester
Howard and Montgomery Counties

³ <https://www.citizen.org/article/tracker-legislation-on-deepfakes-in-elections/>

⁴ <https://www.thomsonreuters.com/en-us/posts/government/deepfakes-federal-state-regulation/>

Figure 1 (Public Citizen)



States with laws to regulate AI deepfakes in elections

- Legislation pending
- Enacted in 2024
- Enacted pre-2024

Source: <https://www.citizen.org/article/tracker-legislation-on-deepfakes-in-elections/>

Table 1: Enacted Prior to 2025

STATE	BILL NO.	STATUS
Alabama	HB 172	Enacted May 2024
Arizona	HB 2394	Enacted May 2024
Arizona	SB 1359	Enacted May 2024
California	AB 730	Enacted Oct. 2019
California	AB 972	Enacted Sept. 2022
California	AB 2355	Enacted Sept. 2024
California	AB 2839	Enacted Sept. 2024

California	AB 2655	Enacted Sept. 2024
Colorado	HB 1147	Enacted May 2024
Delaware	HB 316 HS 1	Enacted October 2024
Florida	HB 919	Enacted April 2024
Hawaii	SB 2687	Enacted July 2024
Idaho	HB 664	Enacted Mar. 2024
Indiana	HB 1133	Enacted Mar. 2024
Massachusetts	H 5100S 2856 Amendment 7	Enacted Nov 2024 (Sunsets Feb 2025)
Michigan	HB 5144	Enacted Nov. 2023
Minnesota	HF 1370	Enacted May 2023
Minnesota	HF 4772	Enacted May 2024
Mississippi	SB 2577	Enacted April 2024
New Hampshire	HB 1596	Enacted August 2024
New Hampshire	HB 1432	Enacted July 2024
New Mexico	HB 182	Enacted Mar. 2024
New York	NY State Budget FY 2024-25 (Part MM Subpart B)	Enacted April 2024
Oregon	SB 1571	Enacted Mar. 2024
Texas	SB 751	Enacted June 2019
Utah	SB 131	Enacted Mar. 2024
Washington	SB 5152	Enacted May 2023
Wisconsin	AB 664	Enacted Mar. 2024

Source: <https://www.citizen.org/article/tracker-legislation-on-deepfakes-in-elections/>

Table 2: Introduced 2025

STATE	BILL NO.	STATUS
Alaska	SB 64	Introduced Jan. 2025
Alaska	SB 2	Introduced Jan. 2025
Alaska	SB 33	Introduced Jan. 2025
Arkansas	HB 1141	Introduced Jan. 2025
Connecticut	HB 6846	Introduced Jan. 2025
Illinois	SB 150	Introduced Jan. 2025
Kentucky	HB 21	Introduced Jan. 2025
Maryland	SB 361	Introduced Jan. 2025
Maryland	HB 525	Introduced Jan. 2025
Maryland	HB 740	Introduced Jan. 2025
Missouri	SB 509	Introduced Jan. 2025
Missouri	HB 673	Introduced Jan. 2025
Montana	SB 25	Introduced Jan. 2025
Nebraska	LB 615	Introduced Jan. 2025
New Hampshire	HB 630	Introduced Jan. 2025
New York	S 2414	Introduced Jan. 2025
New York	A 235	Introduced Jan. 2025
New York	A 3327	Introduced Jan. 2025
North Dakota	HB 1167	Introduced Jan. 2025
Oklahoma	SB 894	Introduced Jan. 2025
Oklahoma	SB 746	Introduced Jan. 2025
South Dakota	SB 164	Introduced Jan. 2025
Texas	SB 893	Introduced Jan. 2025
Vermont	S 23	Introduced Jan. 2025

Mississippi	SB 2642	Introduced Jan. 2025, failed Feb. 2025
Virginia	HB 2479	Introduced Jan. 2025, Passed House Feb. 2025

Source: <https://www.citizen.org/article/tracker-legislation-on-deepfakes-in-elections/>

SB0361-EEE_MACo_SUP.pdf

Uploaded by: Kevin Kinnally

Position: FAV



Senate Bill 361

Election Law - Influence on a Voter's Voting Decision By Use of Fraud - Prohibition

MACo Position: **SUPPORT**

To: Education, Energy, and the Environment
Committee

Date: February 26, 2025

From: Kevin Kinnally

The Maryland Association of Counties (MACo) **SUPPORTS** SB 361. This bill strengthens Maryland's election laws by prohibiting deepfakes and other synthetic media from fraudulently influencing voters or misrepresenting candidates during elections.

Counties administer elections and play a critical role in ensuring their integrity. The rise of "deepfakes" — manipulated videos, images, and audio generated through artificial intelligence — poses a significant threat to voter confidence and the democratic process. This bill provides a necessary safeguard by ensuring election officials have the tools to combat deceptive practices and maintain public trust in Maryland's elections.

The bill expands the definition of fraud to include synthetic media that misrepresents a candidate's speech or actions. This targeted approach allows local election officials to respond proactively to emerging threats and reinforces Maryland's commitment to fair, transparent, and secure elections. By closing this gap in existing law, the bill helps protect voters from misinformation designed to manipulate electoral outcomes.

Counties are critical in protecting election integrity by ensuring voters receive accurate information and preventing deceptive practices. This bill supports these efforts by addressing the growing threat of synthetic media and enhancing safeguards against emerging digital manipulation, ensuring Maryland remains a leader in election security and transparency.

SB 361 provides necessary and timely policy changes that balance the shared goals of providing fair, open, and transparent elections. Accordingly, MACo urges a **FAVORABLE** report on SB 361.

OSP Support SB361.Final.pdf

Uploaded by: Sarah David

Position: FAV

STATE OF MARYLAND

CHARLTON T. HOWARD III
State Prosecutor

SARAH R. DAVID
Deputy State Prosecutor

ABIGAIL E. TICSE - MARY W. SETZER
JOYCE K. McDONALD - BRITTANY DUNKLOW
Senior Assistant State Prosecutors

STEPHANIE HADDAD
Assistant State Prosecutor



OFFICE OF THE STATE PROSECUTOR

40 W. Chesapeake Avenue
Suite 300
Towson, MD 21204
Telephone (410) 321-4067
1 (800) 695-4058
Fax (410) 321-3851

SUPPORT FOR SB 361

Mr. Chairman and Members of the Environmental, Energy, and the Environment Committee:

We are writing to express the support of the Office of the State Prosecutor for Senate Bill 361. 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.

SB 361- Criminalizing the use of artificial intelligence

SB 361 expands on existing language prohibiting using fraud to influence voters in elections.

Elections are one of the most essential elements of our democratic process and while often rife with misinformation and untruths now face a new frontier of challenges as it relates to Artificial Intelligence (AI). There is something different about a satirical piece or even a lie featuring an image that purports to be a candidate, when it is not. Throughout the country there have been cases where people's voices and bodies have been manipulated to be doing and saying things they did not say.

There is no doubt that AI is revolutionizing campaigns—from being used to target voters with AI calls and texts, to calls with the purported voices of candidates with no buy in from the candidates themselves. While the full scope of AI has yet to be realized, the dangers we can anticipate need to have real consequences to be taken seriously. This bill gives our office tools to hold people accountable for inducing people to vote using methods that are fraudulent. Maryland has a history of this. In 2011, our office prosecuted a campaign consultant that called over 100,000 Marylanders in primarily African American communities telling them the election was over and that one of the candidates had already won so the voters could stay home. The message was damaging enough in the form it came in, but with modern AI technology it could include photos of a winner being distributed, a fake concession from a candidate and so much

more.

We believe this legislation is an important step in protecting the integrity of the electoral process in our modern age.

We encourage a favorable report on SB 361.

Sincerely,

CHARLTON T. HOWARD, III
STATE PROSECUTOR

SB 361 - FAV.pdf

Uploaded by: UM SWASC

Position: FAV

TESTIMONY IN SUPPORT OF SENATE BILL 361

Election Law – Influence on a Voter’s Voting Decision By Use of Fraud – Prohibition *Education, Energy, and the Environment Committee* February 26, 2025

Social Work Advocates for Social Change strongly supports SB 361, which would prohibit the use of fraud to influence or attempt to influence a voter’s decision. Fraud in this case refers to the use of synthetic media – meaning a false image, audio recording, or video recording – that has been purposely created using artificial intelligence and digital technology to mimic a real candidate and their appearance, speech, or conduct.

Deepfakes and other AI-generated media have skyrocketed in usage over the past few years. In summer 2023, an image of President Trump hugging former chief medical advisor Anthony Fauci surfaced. In January 2024, voters in New Hampshire received a call from Joe Biden urging them not to vote in the primary,¹ which turned out to be a deepfake commissioned by a Democratic political consultant who wanted to spread wariness of AI.² Other examples include a photo posted by Trump of Taylor Swift as Uncle Sam endorsing him for president,¹ a video posted by Elon Musk in which an AI clone of former Vice President Kamala Harris declaring herself “the ultimate diversity hire,”² a video of Senator Elizabeth Warren insisting that Republicans should be banned from voting in the 2024 election,³ and images of Harris in Soviet garb and of Black Americans supporting Trump.² In Maryland, Pikesville High School’s principal was targeted with a fake recording of his voice containing racist and anti-Semitic comments. The recording was emailed to some faculty, then spread on social media by a teacher who was disgruntled by the principal’s concerns over his work performance and alleged misuse of school funds.⁴ Even Senator Ben Cardin was duped into a meeting with a deepfake of Ukraine’s former Minister of Foreign Affairs Dmytro Kuleba, which appeared to be veracious until it began asking the senator questions like “Do you support long-range missiles into Russian territory? I need to know your answer.”⁵ These instances of AI misuse are troubling, especially as they are being used to imitate and even threaten high-level elected officials.

The effects of AI and deepfakes are already being felt across the American populace. The mere existence of AI technology can lead to a “liar’s dividend,” which is when an atmosphere of mistrust is created.³ When people know devices like AI can be used to spread false media, they may be more wary of which sources to trust, which can enable

¹Candidate AI: The Impact of Artificial Intelligence on Elections. (2024). Emory University. Retrieved February 10, 2025, from https://news.emory.edu/features/2024/09/emag_ai_elections_25-09-2024/index.html.

²Bond, Sharon. (2024, December 21). *How AI deepfakes polluted elections in 2024*. NPR. <https://www.npr.org/2024/12/21/nx-s1-5220301/deepfakes-memes-artificial-intelligence-elections>

³Panditharatne, M. & Giansiracusa, N. (2023, July 21). *How AI Put Elections at Risk – and the Needed Safeguards*. Brennan Center. <https://www.brennancenter.org/our-work/analysis-opinion/how-ai-puts-elections-risk-and-needed-safeguards>

⁴Finley, B. (2024, April 30). *Deepfake of principal’s voice is the latest case of AI being used for harm*. AP News. <https://apnews.com/article/ai-maryland-principal-voice-recording-663d5bc0714a3af221392cc6f1af985e>

⁵Merica, D. (2024, September 26). *Sophistication of AI-backed operation targeting senator points to future of deepfake schemes*. AP News. <https://apnews.com/article/deepfake-cardin-ai-artificial-intelligence-879a6c2ca816c71d9af52a101dedb7ff>

untrustworthy people to falsely accuse legitimate media as fake.⁶ Misinformation driven by AI is simple to create and disseminate, which can cause further divisiveness, exacerbate existing delusions and echo chambers, and corrode faith in the government and media.¹ Furthermore, AI can intensify already existing challenges, such as rumors of election fraud, fabricated voting instructions, and cyberattacks. It can also facilitate easier fabrication of fake evidence of election misconduct. This can put election workers in further danger, as they face scrutiny, harassment, and other serious safety threats. Moreover, voter suppression tactics like fake information on how to vote are most likely to affect those from minority or low-income backgrounds.⁷

AI and deepfakes are already eroding public trust in the fairness of elections. A 2024 Pew Research Center study found that more than a third of Americans said that AI would mostly be used for bad during the presidential campaign, with 5% saying it would be used for good and 27% staying neutral. Over half of adults, comprising nearly identical numbers of Democrats and Republicans, reported extreme concern that those seeking to sway elections would use AI to create and distribute fake or misleading information about the candidates and their campaigns.⁸ The Maryland General Assembly should act now to keep our elections free from interference and as fair as possible, with everybody having an equal voice to express their opinions on who they want in office. Crucial to note is that this is a bipartisan issue and shows little of the political polarization that is starkly apparent in discussions on many other topics.

Social Work Advocates for Social Change urges a favorable report on SB 361. It would put much-needed safeguards and regulations on the fast-growing AI industry, which has proved to have an uncanny ability to wreak havoc on the capacities of people to parse what's real from what's fake. Elections, as the pinnacle of the democracy upon which our country is built, should be free from undue influence from any bad-faith actors attempting to use manipulative tactics and based on complete fairness.

Social Work Advocates for Social Change is a coalition of MSW students at the University of Maryland School of Social Work that seeks to promote equity and justice through public policy, and to engage the communities impacted by public policy in the policymaking process.

⁶Goldstein, J. A. & Lohn, A. (2024, January 23). *Deepfakes, Elections, and Shrinking the Liar's Dividend*. Brennan Center. <https://www.brennancenter.org/our-work/research-reports/deepfakes-elections-and-shrinking-liars-dividend>

⁷Jackson, D., Weil, M., & Adler, W. T. (2024, October 25). *Preparing for Artificial Intelligence and Other Challenges to Election Administration*. Bipartisan Policy Center. <https://bipartisanpolicy.org/report/preparing-for-artificial-intelligence-and-other-challenges-to-election-administration/>

⁸Gracia, S. (2024, September 19). *Americans in both parties are concerned over the impact of AI on the 2024 presidential campaign*. Pew Research Center. <https://www.pewresearch.org/short-reads/2024/09/19/concern-over-the-impact-of-ai-on-2024-presidential-campaign/>

SB 361 - Election Law – Influence on a Voter’s Vote

Uploaded by: Joanne Antoine

Position: FWA

February 26, 2025

Testimony on SB 361
Election Law – Influence on a Voter’s Voting Decision by Use of Fraud – Prohibition
Education, Energy, and the Environment

Position: Favorable w/ Amendments

Common Cause Maryland supports SB 361, with the suggested amendments. The bill would prohibit the use of any deepfake or AI-generated media content, also known as synthetic media content, to influence or attempt to influence a voter’s decision at the ballot box.

Academics and researchers have been sounding the alarm about the use of synthetic media in our elections since well before the dramatic rise in interest in Artificial Intelligence (AI) and the potential risks to democracy and national security. The public is also beginning to understand the risk posed by the use of synthetic media in our elections, with polls from [Ispos](#) and [YouGov](#) showing anywhere from 70% to 85% of people concerned about the role AI deepfakes and other AI-generated content could play in the spread of misinformation.

At the same time, research is raising concerns about the ability of viewers to recognize synthetic media when they see it. For example, a [study](#) by the Rand Corporation found that 27% to 50% of respondents were unable to distinguish deepfakes.

Synthetic media content would likely cause harm to communities that have long been targets of disinformation campaigns – from Black and brown communities, young people, those with first language is not English and those with limited mobility – as there is limited ability to combat biases as the systems used to identify this type of content can for example not [recognize darker skin tones](#).

SB 361 aims to mitigate these risks by prohibiting the use of synthetic media to influence or attempt to influence voter’s decisions. Several states like California and Texas have already taken steps to counter the use of synthetic media, and many other states have bills currently moving through their legislatures.

There are two additional steps we urge the committee to consider:

- A robust disclaimer would clearly inform Marylanders that they are viewing content created to mislead them.
- Injunctive relief would get the misleading content out of circulation as quickly as possible so that as few Marylanders view it as possible.

Disinformation is already a threat to democracy and the use of synthetic media within our elections system only builds on that danger. It is critical that the Maryland General Assembly respond promptly to this new technology to ensure our regulations address the potential for abuse that

comes along with these changes. SB 361 with the suggested amendments is a step in that direction. We urge a favorable report.

[MD] SB 361_syn media elections_TechNet.pdf

Uploaded by: margaret durkin

Position: FWA



TECHNET
THE VOICE OF THE
INNOVATION ECONOMY

TechNet Mid-Atlantic | Telephone 717.585.8622
www.technet.org | @TechNetMidAtla1

February 24, 2025

The Honorable Brian Feldman
Chair
Senate Education, Energy, and the Environment Committee
Maryland Senate
2 West Miller Senate Office Building
11 Bladen Street, Annapolis, MD 21401

RE: SB 361 (Hester) - Election Law - Influence on a Voter's Voting Decision By Use of Fraud – Prohibition – Favorable with Amendments

Dear Chair Feldman and Members of the Committee,

On behalf of TechNet, I'm writing to share our comments on SB 361 related to synthetic media in elections.

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. That includes preventing candidates and their agents from using AI to release deliberately misleading campaign content. Creators of political content that include materially deceptive media should have an obligation to provide clear disclosures. We support statutory language to ensure that liability for dissemination of such media is limited to the person who creates and disseminates it, and not on intermediaries such as internet service providers, platforms, or tools that may be used in its creation or dissemination. Any liability

should be solely on the natural person who is the bad actor violating the law. 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 SB 361:

- **“This section does not impose liability upon the following entities as a result of content provided by another person:**
 - **An interactive computer service, as defined in 47 U.S.C. § 230;**
 - **An internet service provider, cloud provider, or telecommunications network; or**
 - **A radio or television broadcaster, including a cable or satellite television operator, programmer, or producer.”**

Thank you for the opportunity to share our comments on SB 361 and please don't hesitate to reach out with any questions.

Sincerely,

Margaret Durkin

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

MDCD Broadcasters Association -- Nelson Written Te

Uploaded by: Timothy Nelson

Position: FWA



MARYLAND GENERAL ASSEMBLY

Senate Education, Energy, and the Environment Committee

Written Testimony of Timothy G. Nelson on behalf of the Maryland-DC-Delaware Broadcasters Association Regarding Senate Bill 361

(Election Law – Influence on a Voter’s Voting Decision By Use of Fraud – Prohibition)

February 24, 2025

Thank you for the opportunity to submit this written testimony regarding Senate Bill 361, “Election Law – Influence on a Voter’s Voting Decision By Use of Fraud – Prohibition.” My name is Tim Nelson, and I serve as counsel to the Maryland-DC-Delaware Broadcasters Association.¹ On behalf of the Association and its Members, which include approximately 20 television stations and 110 radio stations, I thank Senator Hester for sponsoring and the Committee for holding a hearing on Senate Bill 361, which legislation addresses the very important issue of the use of generative artificial intelligence (AI) and similar technology in the context of elections.

MDCD’s Members—local television and radio stations—are the most trusted source of news and information here in Maryland and across the country; that role for local broadcasters is all the more important in light of the rampant increase in the use of generative AI in spreading misinformation and disinformation. As is the case in newsrooms across America, MDCD’s television and radio stations are working diligently to protect against generative artificial intelligence distorting the news reporting and informational content that they source, produce, and freely deliver to the public.

While MDCD is supportive of the goals Senate Bill 361 (and its predecessor legislation in the 2024 Regular Session, Senate Bill 978) appears intended to achieve, MDCD does have some concerns regarding the legislation as currently drafted—and we hope to have the opportunity to work with the Committee to address them. Specifically:

- Senate Bill 361 does not provide an exception for liability for broadcasting “Synthetic Media” either (1) when a broadcaster is paid to distribute the Synthetic Media, or (2) when the broadcaster distributes the Synthetic Media as part of bona fide news reporting. While MDCD believes that SB 361, as written, would likely not impose liability on a broadcaster in such instances (because such a broadcast would not be made with fraudulent intent on the part of the broadcaster), MDCD nonetheless believes that an express exemption for liability in such situations is necessary. A broadcaster in

¹ The Maryland-DC-Delaware Broadcasters Association is a voluntary, non-profit trade association that advocates for the interests of its member radio and television stations and, more generally, the interests of broadcasting in Maryland, Delaware, and Washington, D.C.

receipt of paid advertising/programming containing Synthetic Media of which the broadcaster is unaware should not be held criminally responsible for airing such content, nor should broadcasters be forced to carry the burden of investigating each paid advertisement/program for content that appears to be realistic but is in fact Synthetic Media. And, a broadcaster's important reporting on the use of Synthetic Media (particularly when such use is designed to defraud the public and improperly influence an election) should not be chilled because the broadcaster fears potential criminal liability.

- Moreover, with respect to advertising, MDCD notes that under federal law (47 U.S.C. § 315(a)), broadcasters are prohibited from censoring (including editing by way of addition or removal) the content of an advertisement that is paid for by a legally qualified candidate for public office and/or such candidate's authorized campaign committee (unless such content is legally obscene). MDCD respectfully submits that the language of SB 361 must account for this provision of federal law; even if, for example, a broadcaster knows that a paid candidate ad uses "Synthetic Media," the broadcaster is, generally, required by law to broadcast such advertisement without modification. A broadcaster should not be held liable for its compliance with federal law; SB 361 should harmonize with the federal statute.

To reiterate, MDCD supports efforts to harness the power of generative artificial intelligence and to reduce the spread of misinformation and disinformation, particularly in the context of free and fair elections. It is important that such efforts, however, do not inadvertently sweep up broadcasters and other news media entities that are already working tirelessly to provide trusted local journalism and information—and to root out deceptive uses of AI. We look forward to working with the Committee on this important legislation.

* * * * *

FINAL 2025 MD SB 361 Testimony - Chris Mclsaac .pd

Uploaded by: Robert Melvin

Position: UNF



1411 K Street NW
Suite 900
Washington, D.C. 20005
202-525-5717

Free Markets. Real Solutions.
www.rstreet.org

Testimony from:
Chris McIsaac, Governance Fellow, R Street Institute

Testimony in Opposition to SB 361, “An act concerning Election Law- Influence on a Voter’s Voting Decision by Use of Fraud- Prohibition.”

February 26, 2025

Senate Education, Energy and Environment Committee

Chairman Feldman and members of the committee:

My name is Chris McIsaac, and I conduct research on election reform for the R Street Institute, a nonprofit, nonpartisan public policy research organization. Our mission is to engage in policy research and outreach to promote free markets and limited, effective government across a variety of policy areas, including the intersection of artificial intelligence (AI) and election policy. This is why Senate Bill 361 is of particular interest.

Recent advances in artificial intelligence are impacting all aspects of modern life, including the way elections are administered and campaigns are run.¹ These advances have raised fears that technology will be used to deceive voters at scale and erode trust in elections, though the actual impacts on the 2024 election were minimal.² SB 361 attempts to mitigate these potential harms by criminalizing the use of “synthetic media” to knowingly influence voter decisions. While well intentioned, the bill is incredibly problematic. Rather than relying on Maryland’s existing laws against fraud, it creates a concerning new content – and technology – based restriction on election related speech.

Legislative attempts to regulate the use of AI to generate deceptive election content has accelerated in recent years and today there are 20 states with laws in place.³ Seventeen of these states require a label while the other three—California, Minnesota and Texas—place an outright prohibition on the use of AI. A federal judge recently blocked California’s prohibition law as a free speech violation and a similar lawsuit is pending in Minnesota.⁴ By putting forward a new content-based restriction on political speech, SB 361 exposes Maryland to a similar legal challenge on First Amendment grounds.

¹Chris McIsaac, “Impact of Artificial Intelligence on Elections,” *R Street Policy Study* No. 304, June 2024.
<https://www.rstreet.org/wp-content/uploads/2024/06/FINAL-r-street-policy-study-no-304.pdf>

²Chris McIsaac, “AI and the 2024 Election Part II: Many Uses and Minor Impacts,” R Street Institute, January 14, 2025.
<https://www.rstreet.org/commentary/ai-and-the-2024-election-part-iii-many-uses-and-minor-impacts/>

³Artificial Intelligence (AI) in Elections and Campaigns,” National Conference of State Legislatures, October 24, 2024.
<https://www.ncsl.org/elections-and-campaigns/artificial-intelligence-ai-in-elections-and-campaigns>

⁴“Election deepfakes prompt state crackdowns- and First Amendment concerns,” Wall Street Journal, October 5, 2024.
<https://www.wsj.com/us-news/law/election-deepfakes-prompt-state-crackdownsand-first-amendment-concerns-0b992e8e>



1411 K Street NW
Suite 900
Washington, D.C. 20005
202-525-5717

Free Markets. Real Solutions.
www.rstreet.org

In defining which types of election content will be regulated, SB 361 casts too wide a net. The definition of “synthetic media” includes false content generated not only by AI but also the catch-all term “other digital technology.” It also establishes a low threshold for the level of deception necessary to qualify as a regulated communication, particularly for images, audio and video of candidates. This sets the stage for broad regulation of deceptive election communications ranging from sophisticated AI-generated deepfake videos to crude photo-shopped “memes.” While many targets of misleading memes may wish such content were illegal, freedom of speech—particularly political speech—is a core American value that must be protected.

On the restriction itself, SB 361 bluntly states that any use of synthetic media qualifies as fraud by definition. Existing Maryland law prohibits the use of fraud to influence voter participation decisions so by extension SB 361 makes the use of any synthetic media for that same purpose a crime.⁵ However, there are both negative and positive forms of influence and the current law is not limited to the negative. That means SB 361 could inadvertently criminalize the use of photoshop or AI generated messages that encourage voter participation.

SB 361 is also unnecessary because Maryland’s existing technology-neutral fraud prohibition already covers the use of synthetic media and all other tools of deception. The relevant factor under the current law is whether the underlying activity is fraudulent, regardless of the technology used. For example, using a deepfake to fraudulently coerce a voter into not casting a ballot is illegal just the same as if the coercion occurred over the phone speaking with a real person. However, SB 361 abandons this framework for synthetic media and instead finds that the use of the technology to influence a voter decision automatically qualifies as fraud.

Finally, the bill expands the government’s role in policing political speech by banning the use of fraud— and by extension, synthetic media— to influence decisions about which candidate to support.⁶ This puts the government squarely in the position of being the arbiter of truth in political disputes. Instead, Maryland should rely on politicians and their supporters to correct the record with more speech when their opponents lie.

Overall, the push toward protecting the public from exposure to election related deceptions is well meaning but banning certain types of political speech based on both the content and technology used is unnecessary and creates a burden on free speech. For these reasons, we urge an unfavorable report on SB 361.

Thank you,

Chris McIsaac
Fellow, Governance
R Street Institute
cmcisaac@rstreet.org

⁵ Maryland Election Law §16–201(b)(6) and §16–201(c).

⁶ Maryland Election Law §16–201(b)(5).