



March 7, 2025

The Honorable Pamela Beidle
Chair
Senate Committee on Finance
Room 3, East Wing, Miller Senate Office Building
11 Bladen Street
Annapolis, MD 21401-1991

Re: Opposition to SB 1025

Dear Chair Beidle:

On behalf of the undersigned public interest organizations and trade associations, we respectfully **urge you to oppose SB 1025.**

Noting that SB 1025 is virtually identical to the federal NO FAKES Act as introduced in the last Congress, we oppose SB 1025 for three principal reasons. Specifically, we believe the bill as written would:

- Contravene the fundamentals of federal copyright law by unconstitutionally protecting facts, as courts consistently have held voices and likenesses to be. Its savings clause also may fail to permit conduct protected under the Copyright Act's fair use exception (17 USC §107). The bill is thus likely to be fully preempted;
- Subject online service providers to liability from which federal law now productively shields them, and
- Unconstitutionally interfere with all citizens' rights to free speech. Thus, as a broad restraint on speech, the bill is unlikely to survive the strict scrutiny test mandated by the Supreme Court for assessing such legislation, having not been narrowly tailored to its objectives.

Finally, we also respectfully note that adopting SB 1025 may be unnecessary. We understand that while Maryland law contains no statutory right of publicity, its courts recognize the common law appropriation invasion of privacy tort and follow Section 652C of the Restatement (Second) of Torts (1977). It states that an individual who appropriates another's name or likeness for personal benefit is liable for an invasion of privacy (*Lawrence v. A.S. Abell Co.*, 475 A.2d 448, 450-51 (Md. 1984)). Codifying this doctrine would appear to achieve the objectives of SB 1025.

For these reasons, we **respectfully urge you to reject SB 1025.**

Sincerely,

Chamber of Progress
Electronic Frontier Foundation
Engine
Public Knowledge
Software Information Industry Association