

KATIE FRY HESTER
Legislative District 9
Howard and Montgomery Counties

Education, Energy, and
Environment Committee

Chair, Joint Committee on
Cybersecurity, Information Technology
and Biotechnology



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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

Testimony in Support of SB0362- Forged Digital Likenesses - Distribution - Prohibition

January 27, 2025

Chairman Smith, Vice-Chair Waldstreicher, and Members of the Judicial Proceedings Committee:

Thank you for your consideration of Senate Bill 0362, Forged Digital Likenesses - Distribution - Prohibition. This legislation addresses the increasing misuse of artificial intelligence (AI) to create forged digital likenesses—realistic representations of individuals that are indistinguishable from authentic ones but falsely presented as genuine. These deceptive creations not only mislead viewers but also leave the targeted individuals unaware and defenseless against such violations. The consequences can be devastating, with the potential to cause irreparable harm to reputations and inflict significant personal damages.

Earlier this year, a troubling incident at Pikesville High School highlighted the urgency and threat of this issue. The school's athletic director used artificial intelligence to create a false audio recording of the school's principal, leading the public to believe he had made racist and antisemitic remarks. This falsified audio, while not technically advanced, required only a basic recording of the principal's voice and a \$ 5-a-month AI tool.¹ The incident served as an important warning and call to action: anyone with minimal resources can now use AI to forge someone's likeness.

In the aftermath of the Pikesville incident, Senator Hettleman and I recognized a critical gap in our legal framework: the need to hold individuals accountable for creating synthetic media with the intent to deceive. As you know, there are certain forms of speech, such as fraud and obscenity, that fall outside the protections of the First Amendment. Therefore, we sought an Attorney General's opinion on whether deepfakes deliberately crafted to deceive were protected. The opinion confirmed that the language in this bill "would likely pass First Amendment scrutiny by a reviewing court to the extent it covers only fraudulent speech and/or content."

¹<https://www.thebaltimorebanner.com/education/k-12-schools/pikesville-principal-ai-GXGDPO5W6JHFBGES25SYQ2KM5M/>

SB 362 will protect our citizens from this emerging threat and strengthen Maryland's criminal law by:

1. **Defining a forged digital likeness** as any computer-generated visual representation or audio that is indistinguishable from a genuine representation, misrepresents an individual, and is likely to deceive a reasonable person into believing the representation is genuine.
2. **Prohibiting malicious distribution** by making it illegal to knowingly share forged digital likenesses as genuine when the person sharing them knows or should reasonably know they are fake.
 - a. Violators can face up to three years in prison, a \$1,000 fine, or both.
3. **Providing legal protection** for people who clearly mark their content as fake or ensure viewers understand it isn't real. Clarifying that this bill may not be construed in a manner that infringes on the right of free speech or of the press, and clarifying the bill does not apply to works of art.

This legislation will provide Marylanders protection against the growing misuse of AI and prevent the weaponization of digital likenesses for malicious purposes. As our technology gets more advanced and these forgeries become more common, it is more important now than ever that we are equipped with a pathway for victims to receive justice. Fundamentally, every person should have a right to their own likeness. ***For these reasons I am requesting a favorable report on SB 362.***

Sincerely,

A handwritten signature in cursive script that reads "Katie Fry Hester".

Senator Katie Fry Hester
Howard and Montgomery Counties