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Feb. 4, 2025

General Assembly of Maryland  
House Ways and Means Committee  
[Delegate Vanessa E. Atterbeary](#), Chair  
[Delegate Jheanelle K. Wilkins](#), Vice Chair  
Annapolis, Maryland 21401

Dear Members of the Committee:

On behalf of our 15,880 supporters in Maryland, Public Citizen submits this testimony in strong support of H.B. 0525 – **“Election Law – Influence on a Voter’s Voting Decision By Use of Fraud – Prohibition.”**

The 2024 election shaped up to become the “first serious deepfake election” in the United States, in which many campaign advertisements will be entirely fabricated by advanced computer technology depicting candidates saying and doing things in seemingly real-life voices and images that never really happened. These fabricated images and audios created by generative “artificial intelligence,” designed to cause harm to a candidate or public official or to deceive voters are known as deepfakes.

There are almost no disclosure requirements or regulations at most state or federal levels that would give voters a reasonable chance to discern the accuracy of these deceptive campaign communications.

H.B. 0525 would change all that for Maryland voters.

Although generative “Artificial Intelligence” (AI) has been around for quite some time – computerized deep-learning models that can take raw data and produce high-quality images, videos, text and voice content – only in recent years has AI technology made such startling advances in producing computerized content so realistic in appearance and sounds as to often be indistinguishable from actual events.

When it comes to campaign communications, AI-generated content may frequently be useful and even reduce the costs of creating campaign commercials. Instead of sending a crew out to film the Rocky Mountains for background in a commercial, for instance, the same realistic-looking images can be produced on a computer by AI and fused into the ad. AI can also be employed by campaigns for data gathering and data analysis as well as to facilitate campaign fundraising.

Some AI-generated content can also be harmfully deceptive, especially when the content targets candidates or political parties. Immediately following President Joe Biden’s announcement that

he is running for reelection in 2024, the Republican National Committee (RNC) produced its first entirely fabricated AI campaign ad entitled “Beat Biden.” It pictured Biden and Vice President Kamala Harris laughing at their reelection party, then spanned into images of China bombing Taiwan, then to pictures of a collapsing Wall Street financial market, films of 80,000 illegal immigrants flooding across the border, and finally to scenes of a police occupation of San Francisco due to the fentanyl drug crisis. None of these images were real. All of it was fabricated. Yet, many viewers thought some of the ad was real, expressing concern especially about the San Francisco lockdown, even though the ad included a subtle disclaimer (to the RNC’s credit).

Examples of harms intended by deepfakes in campaign communications mounted at both the federal, state and local levels. The 2024 presidential campaign of Gov. Ron DeSantis, for example, posted deepfake images of former President Donald Trump hugging Dr. Anthony Fauci.<sup>1</sup> The hug never happened. Earlier, Trump produced his own low-quality AI-generated ad of DeSantis enjoying the company of Elon Musk, George Soros, Dick Cheney, Adolf Hitler, and Satan.<sup>2</sup>

On the Democratic side, a consulting firm for presidential candidate Dean Phillips used an AI-generated voice of Biden in robocalls instructing Democratic voters in the New Hampshire primary to stay home. The robocall used a voice similar to Biden’s and mimicked his phrase, “What a bunch of malarkey.” The fake robocall continued: “Save your vote for the November election.... Voting this Tuesday only enables the Republicans in their quest to elect Donald Trump again. Your vote makes a difference in November, not this Tuesday.”<sup>3</sup>

At the local level, on the eve of Chicago’s most recent city election, a deepfake video was circulated on Twitter (now called X) depicting mayoral candidate Paul Vallas giving a speech, in a voice identical to his own, condoning police brutality. The video falsely showed Vallas saying that back in his day, cops could kill 17 or 18 people and “nobody would bat an eye.” It was posted by a fictional entity called “Chicago Lakefront News” right before the primary election and viewed thousands of times before being taken down. Vallas lost the otherwise close mayoral primary election.<sup>4</sup>

In trying to assess the potential impact of generative AI in the U.S. 2024 elections and beyond, a new database has been developed by the Center for Advancing Safety of Machine Intelligence, a

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<sup>1</sup> Nicholas Nehamas, “DeSantis campaign uses apparently fake images to attack Trump on Twitter,” *New York Times* (June 8, 2023), available at: <https://www.nytimes.com/2023/06/08/us/politics/desantis-deepfakes-trump-fauci.html?auth=login-google1tap&login=google1tap>

<sup>2</sup> Shannon Bond, “DeSantis campaign shares apparent AI-generated fake images of Trump and Fauci,” *National Public Radio* (June 8, 2023), available at:

<sup>3</sup> Ali Swenson and Will Weissert, “New Hampshire investigating fake Biden robocall meant to discourage voters ahead of the primary,” *Associated Press* (Jan. 22, 2024), available at: <https://apnews.com/article/new-hampshire-primary-biden-ai-deepfake-robocall-f3469ceb6dd613079092287994663db5>

<sup>4</sup> Megan Hickey, “Vallas campaign condemns deepfake video posted on twitter,” CBS Chicago (Feb. 27, 2023), available at: <https://www.cbsnews.com/chicago/news/vallas-campaign-deepfake-video/>

collaborative research project of Northwestern University and UL Research Institutes, called the “Political Deepfakes Incidents Database.”<sup>5</sup>

The Political Deepfakes Incidents Database is constantly growing in size. When the database was shared with this witness in excel format on June 17, 2024, it contained 293 cases of cheapfake (manipulated images) or deepfake (fabricated images) political communications on Twitter targeting U.S. elections since 2016 through the first half of 2024. Each case usually gets viewed and shared, often hundreds of thousands of times (if not in the millions for viewed), and so the reach is far greater than the actual number of cases.

Once again, a simple count of the cases shows a dramatic increase in deepfakes in just the last few years. The count of cases is below in Table 1:

**Table 1.**  
**Political Deepfakes Incidents Database**  
**Number of Deepfakes on Twitter, 2016 – 2024**

<b>Year</b>	<b>Cases</b>
2016	1
2017	0
2018	3
2019	6
2020	35
2021	33
2022	6
2023	167
2024 (half)	42
<b>TOTAL</b>	<b>293</b>

As is evident, the fabrication of deepfake political ads is swarming and will grow exponentially year by year.

H.B. 0525 addresses this growing problem of false and deceptive deepfakes head-on, following a similar approach recently adopted by the Federal Election Commission (FEC) for federal elections. The new FEC “interpretive rule” of the federal regulation banning “fraudulent misrepresentation” by candidates in campaign ads (11 C.F.R. § 110.16) clarifies that the rule against campaign fraud applies “irrespective of the technology used.” This FEC interpretive rule came in response to a petition for rulemaking submitted by Public Citizen in July 2023.

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<sup>5</sup> “The Political Deepfakes Incidents Database” from the Center for Advancing Safety of Machine Intelligence, which was graciously shared with the author in an excel program for further data analysis, is available in Airtable format at: <https://airtable.com/appOU03dlKuBdbmtY/shrEkrIYINbrCkQ3z/tbleGYjNLn2D4Xfzs>

Though similar in nature to the FEC guidance on the law against election fraud, H.B. 0525 is much more carefully crafted. The legislative proposal clearly defines ‘synthetic media’ and, more importantly, limits the fraudulent use of synthetic media to ads that depict a false but realistic image or audio of a specific candidate or that causes deception or trickery for voters.

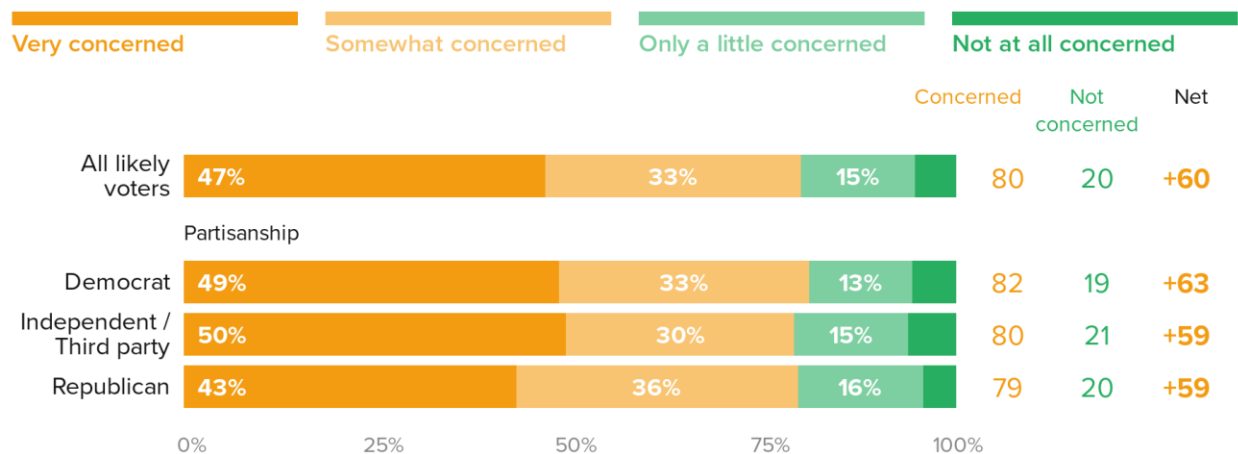
Voters are very concerned about being fraudulently deceived by deepfakes election ads. A nationwide survey conducted in February 2024 found that citizens across all parties are worried about being fooled by such ads, as shown below in Table 2.

**Table 2.**

## More Than Three-Quarters of Voters Are Concerned About the Use of Deepfakes in the November 2024 Election

"Deepfakes" are a type of artificial intelligence (AI) in which someone can create convincing images, audio, and videos to represent a person saying or doing something that they never actually said or did.

How concerned or not concerned are you about the use of "deepfakes" of candidates and political figures during the November 2024 election?



February 2–5, 2024 survey of 1,225 likely voters

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### CONCLUSION: PROTECT THE INTEGRITY OF ELECTIONS BY PASSING H.B. 0525

Currently, 20 states across the nation have taken the lead in regulating the use of deepfakes in state elections. Maryland should join this reform wave by declaring that fraudulent misrepresentation of the images and voices of candidates constitute fraud against the candidates targeted and fraud against the voters. In state after state, the idea of regulating deepfakes in campaign communications has gained bipartisan support in state legislatures and overwhelming support among the public.

H.B. 0525 seeks to preserve the integrity of elections in Maryland under the constitutional protection prohibiting fraud against candidates and voters. While the content of political messages is protected under the First Amendment, as it should be, that right does not extend to saying anything, anywhere and in any fashion. The regulation of fraud in political messages is permissible under the Constitution. In order to protect the right to vote, the Supreme Court has recognized that government has compelling interests in protecting voters “from confusion and undue influence,” and in “preserving the integrity of its election process.”<sup>6</sup> In the Court’s view, “preventing voter intimidation and election fraud” is “necessary,” and “[e]nsuring that every vote is cast freely, without intimidation or undue influence, is ... a valid and important state interest.”<sup>7</sup> Where it is necessary to regulate speech about elections—a content-based category of speech subject to strict scrutiny—the government can take steps to protect this compelling interest.

Public Citizen strongly urges the Maryland House Ways and Means Committee to move H.B. 0525 forward for final passage in order to put in place much-needed regulations to protect voters, our elections and our democracy from the harms of deepfakes.

Respectfully Submitted,

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<sup>6</sup> Institute for Constitutional Advocacy and Protection, “Fact Sheet: Regulation of False, Misleading, or Intimidating Speech About Elections,” Georgetown Law School (2024), available at: <chrome-extension://efaidnbnmnnibpcajpcglclefindmkaj/https://www.law.georgetown.edu/icap/wp-content/uploads/sites/32/2024/08/Fact-Sheet-False-Misleading-and-Intimidating-Election-Information.pdf>

<sup>7</sup> *Brnovich v. Democratic Nat’l Comm.*, 594 U.S. 647, 672 (2021).