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TO: The Honorable J. Sandy Bartlett, Chair
Judiciary Committee

FROM: Hanna Abrams, Assistant Attorney General

RE: House Bill 184 – Identify Fraud – Artificial Intelligence and Deepfake
Representations – LETTER OF INFORMATION

The Consumer Protection Division of the Office of the Attorney General submits the following letter of information with regard to House Bill 184. House Bill 184 expands the criminal identity fraud statute to prohibit the use of artificial intelligence and deepfake representations to impersonate or falsely depict a person to cause harm.

House Bill 184 incorporates a definition of “artificial intelligence” that does not fully reflect the capabilities of emerging AI systems. House Bill 184 refers to the definition of “artificial intelligence” found in the § 3.5-801 of the State Finance and Procurement Article which states:

- (c) “Artificial intelligence” means a machine-based system that:
- (1) can, for a given set of human-defined objectives, make predictions, recommendations, or decisions influencing real or virtual environments;
 - (2) uses machine and human-based inputs to perceive real and virtual environments and abstracts those perceptions into models through analysis in an automated manner; and
 - (3) uses model inference to formulate options for information or action.

This definition does not adequately address two aspects of artificial intelligence. First, by referring only to “predictions, recommendations, or decisions,” and omitting any reference to content, the definition may not clearly encompass systems whose primary function is the generation of content or other original outputs. Although content generation can be described in technical terms as a form of prediction, that characterization is not readily apparent from the

term's ordinary meaning. The express inclusion of content generation is particularly important in the context of legislation regulating deepfakes. Second, in limiting itself to "human-defined objectives," it does not explicitly encompass implicit objectives. Implicit objectives are goals that are not directly coded but learned from data or inferred from behavior, such as optimizing performance based on user interactions.

These omissions risk creating regulatory gaps and may undermine the effectiveness of the legislation as applied to contemporary and future artificial intelligence models. As artificial intelligence systems generate content and increasingly operate with varying degrees of autonomy, the Division recommends adopting the definition found in the Maryland Insurance Code:

"Artificial intelligence" means an engineered or machine-based system that varies in its level of autonomy and that can, for explicit or implicit objectives, infer from the input it receives how to generate outputs that can influence physical or virtual environments.

MD Code Ann., Ins. Law, § 15-10B-05.1.

This definition aligns with the definition used in many other state artificial intelligence regulation. *See, e.g.*, California's CA Gov't Code § 11546.45.5 (2024) and Colorado's C.R.S. § 6-1-1701(2)). This definition provides sufficient flexibility to accommodate future developments and advances HB 184's purpose of protecting Marylanders from identity fraud perpetrated through artificial intelligence, including deepfakes.

Cc: Delegate Cheryl E. Pasteur
Members, Judiciary Committee