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SUPPORT FOR HB 184

Mr. Chairman and Members of the Judiciary Committee:

We are writing to express the support of the Office of the State Prosecutor for House Bill 184. 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.

House Bill 184- Criminalizing the use of artificial intelligence

House Bill 184 alters Maryland's existing identity theft statute to include the use of artificial intelligence and deep fake technology. This uses the same theory of identity theft with the criteria being that this technology is indistinguishable from an identifiable human being and that it was crafted with that intent. It is important to note that the requirement is that the person has to have fraudulent intent, there is no consent from the person, and there is intent to cause harm.

The crime is a felony not only due to the serious adverse ramifications using artificial technology causes but also because of the time and resources required for law enforcement to investigate the source of the technology. Discovering who committed the act often takes more than a year by the time the data is analyzed (especially if it is not known who created the deepfake). It is also a way to manipulate public information in a way that can impact people's lives, especially the lives of young people, in a very negative way. Cases in Maryland have included faking the voice of a high school principal to make the community believe he made antisemitic and racist remarks and a person manipulating images to look like minors were engaged in sexual activity and sharing it within their school community. These cases are extremely difficult to prosecute under our current laws.

This law is drafted to truly criminalize the identity theft component. The requisite criminal intent would not be met by something satirical or meant to entertain. Rather, by encapsulating

this language in the identity theft statute, it makes it clear that it is not criminalizing the fact the material is artificial, but the intent to make people believe it is not. Our office is particularly concerned about how this will be used in elections to target candidates for political office. While lies are protected in elections there are spaces where these artificial intelligence videos exceed the normal bounds of untruths and lead to fraud. We have already seen examples here and around the world. A video depicting the President of Argentina Javier Milei explaining how to sell human organs was spread around the internet threatening his reputation. Fake videos depicting world leaders and candidates being taken out of their homes in handcuffs, assaulting their staff, and even in one circumstance announcing the candidates withdrawal from the race right before election day easily go viral on the internet and cause significant harm to the people involved. There is a difference between saying something happened and creating a very real depiction of it happening and that is what this law seeks to address.

We encourage a favorable report on House Bill 184.

Sincerely,

CHARLTON T. HOWARD, III
STATE PROSECUTOR