

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 145

(Delegate Feldmark, *et al.*)

Government, Labor, and Elections

Rules

Election Law - Election Misinformation, Election Disinformation, and Deepfakes

This bill establishes a specified prohibition against a person knowingly or with reckless disregard creating, using, or disseminating a specified “deepfake” to produce materially false information relating to an election that results in specified harm (or has the intent to result in specified harm), with violations subject to criminal penalties of a fine of up to \$5,000 and/or imprisonment for up to five years. The bill also (1) requires the State Administrator of Elections to take specified action to correct election misinformation or disinformation; (2) authorizes the State Administrator to seek an injunction for the removal of election misinformation or disinformation from an online platform; and (3) authorizes the State Board of Elections (SBE), in consultation with the State Administrator, to file a civil action to recover any costs of correction of election misinformation (that is created, used, or disseminated with reckless disregard) or election disinformation. **The bill takes effect June 1, 2026.**

Fiscal Summary

State Effect: Special fund (Fair Campaign Financing Fund) and general fund revenues may increase annually beginning in FY 2027, as discussed below. Expenditures are not expected to be materially affected.

Local Effect: The bill is not expected to materially affect local government finances.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Prohibition Against Use of Deepfakes to Produce Materially False Information

The bill prohibits a person from knowingly or with reckless disregard creating, using, or disseminating a deepfake to produce materially false information if:

- the person has the intent to use the deepfake to (1) impede, influence, prevent, or attempt to impede, influence, or prevent a voter's decision to cast a ballot; (2) misrepresent facts relating to voter registration, voting methods, election results, electoral processes, or official duties of an election official; (3) induce or attempt to induce another individual to sign or not sign a petition for a question to appear on a ballot; or (4) influence or attempt to influence a voter's decision whether to vote for or against a candidate or ballot issue; and
- the creation, use, or dissemination of the deepfake results, or has the intent to result, in harm to a voter, potential voter, or petition.

A person who violates the prohibition is guilty of a misdemeanor and subject to a fine of up to \$5,000 and/or imprisonment for up to five years.

“Deepfake” means an image, an audio recording, or a video recording that has been intentionally created or manipulated with the use of generative artificial intelligence or other digital technology to create a realistic but false depiction of a person that an ordinary person would conclude is an actual visual or audio representation of the person depicted.

“Influence” includes the use of pressure, deception, trickery, or direct or indirect authority to induce action or to change the decision or act of another, regardless of the medium used.

The bill's prohibition does not apply:

- to a deepfake that is satire or parody;
- to a specified radio or television broadcast of a deceptive and fraudulent deepfake (1) that is part of a candidate advertisement the broadcaster is required to broadcast under federal law; (2) that is part of a news broadcast; or (3) that the broadcaster has been paid to broadcast; or
- to a deceptive and fraudulent deepfake published by a website or regularly published newspaper, magazine, or other periodical of general circulation (including an Internet or electronic publication) that routinely carries news and commentary of general interest.

The following persons may not be found to have violated the bill’s prohibition solely because the person’s services or facilities are used by another person to disseminate a deepfake in violation of the bill’s prohibition:

- an interactive computer service, as defined in 47 U.S.C. § 230;
- an Internet service provider;
- a cloud service provider;
- a streaming service provider; or
- a telecommunications network.

Efforts to Correct and/or Remove Election Misinformation or Disinformation

If the State Administrator receives a credible report that election misinformation or election disinformation, including a deepfake, has been or is being communicated, disseminated, or distributed, the State Administrator (1) must communicate, disseminate, or distribute to the public accurate information to correct the election misinformation or election disinformation; (2) may seek an injunction in accordance with the Maryland Rules for the removal of the election misinformation or election disinformation from any online platform; and (3) may issue a subpoena in accordance with the federal Stored Communications Act, if applicable, for records related to the dissemination or distribution of the election misinformation or election disinformation, including information related to the targeted audience.

However, the State Administrator may not seek an injunction against an interactive computer service, as defined in 47 U.S.C. § 230, for the removal of content disseminated by another person through the interactive computer service.

“Election misinformation” means incorrect or misleading information regarding the time, place, or manner of an election, election results, or voting rights in the State.

“Election disinformation” means incorrect or misleading information regarding the time, place, or manner of an election, election results, or voting rights in the State *that is knowingly and deliberately disseminated.*

The bill authorizes SBE, in consultation with the State Administrator, to file a civil action against a person, campaign, political action committee, or other legal entity if SBE (1) finds that the person created, used, or disseminated election information or, with reckless disregard, election misinformation and (2) incurs costs to communicate, disseminate, or distribute to the public accurate information to correct the election misinformation or election disinformation. SBE may not file a civil action against a person (1) exempt from the bill’s deepfake prohibition or (2) who seeks to detect, report, prevent, investigate,

respond to, or prosecute persons responsible for security breaches, identity theft, fraud, harassment, or other malicious or illegal activity.

SBE may seek damages, court costs, and attorney's fees in such an action. A court may award damages, court costs, or attorney's fees in a civil action only based on a showing by clear and convincing evidence that the person, campaign, political action committee, or other legal entity created, used, or disseminated election disinformation or, with reckless disregard, election misinformation.

Current Law:

Influencing or Attempting to Influence a Voter's Decision

A person may not willfully and knowingly influence or attempt to influence (1) a voter's voting decision through the use of force, threat, menace, intimidation, bribery, reward, or offer of reward or (2) a voter's decision whether to go to the polls to cast a vote or vote by other lawful means, through the use of force, fraud, threat, menace, intimidation, bribery, reward, or offer of reward.

Chapter 126 of 2024 defines "influence," under those prohibitions, to include the use of pressure, deception, trickery, or direct or indirect authority to induce action or to change the decision or act of another, regardless of the medium used.

A person who violates the prohibitions is guilty of a misdemeanor and subject to a fine of up to \$5,000 and/or imprisonment for up to five years. A person who violates the prohibition against influencing or attempting to influence, through specified means, a voter's decision whether to vote, without knowing that the act is illegal, is subject to a civil penalty of up to \$5,000.

Portal to Report Election Misinformation and Disinformation

Chapter 126 also requires that SBE (1) maintain a portal on its website that the public may use to report election misinformation and election disinformation and (2) conduct a periodic review of material submitted by the public through the portal and, to the extent necessary, issue corrective information or refer submissions to the State Prosecutor.

State Revenues: Special fund revenues may increase annually beginning in fiscal 2027 to the extent criminal penalties are collected under the bill. Fines imposed for criminal violations of the Election Law Article are distributed to the Fair Campaign Financing Fund, which holds funds for public campaign financing of gubernatorial tickets under the Public Financing Act. The extent of any increase cannot be reliably estimated.

General fund revenues may also increase annually beginning in fiscal 2027 to the extent SBE recovers damages, in a civil action, for any costs incurred to correct election misinformation or disinformation that were supported by general funds. SBE indicates that it currently monitors and corrects election misinformation and disinformation, but the bill would allow the board to recover damages for any costs incurred for corrections. The extent of any increase cannot be reliably estimated.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See SB 361 and HB 525 of 2025.

Designated Cross File: SB 141 (Senator Hester, *et al.*) - Education, Energy, and the Environment.

Information Source(s): Judiciary (Administrative Office of the Courts); State Prosecutor's Office; Maryland State Board of Elections; Maryland Public Television; Office of the Public Defender; Department of Legislative Services

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