

March 18, 2025

To the Honorable Members of the Rhode Island House of Representatives,  
House State Government & Elections Committee

Subject: Opposition to House Bill 5872 – Deceptive and Fraudulent Synthetic Media in Election Communications

Dear Representatives,

I write to express my strong opposition to House Bill 5872, introduced by Representative Jacquelyn M. Baginski on February 28, 2025. While the intent to curb deceptive practices in election communications is commendable, this legislation raises significant concerns regarding free speech, practical enforcement, and unintended consequences that could undermine democratic discourse in Rhode Island. HB 5872 seeks to regulate "synthetic media"—defined as manipulated images, audio, or video created using generative technologies—by prohibiting its distribution within 90 days of an election if deemed "deceptive and fraudulent," unless accompanied by specific disclosures. However, its broad scope and vague language threaten to chill legitimate political expression and impose burdensome restrictions on individuals and organizations. Below, I outline my primary objections:

#### Threat to Free Speech and Creative Expression

The First Amendment guarantees robust protections for political speech, including satire, parody, and commentary—forms of expression explicitly exempted under Section 17.30-3(a)(4) of the bill. However, the subjective determination of what constitutes "deceptive and fraudulent" synthetic media risks overreach. For instance, a satirical video lacking a disclosure could face legal scrutiny if its intent is misinterpreted, discouraging creators from engaging in lawful critique. This concern is supported by documented instances in other jurisdictions, such as the 2023 Slovakia parliamentary election, where a deepfake audio recording of Progressive Slovakia party leader Michal Šimečka, alleging vote-rigging, circulated and may have influenced the election outcome, despite being debunked. This case highlights the difficulty of distinguishing deceptive media from satire or parody, a risk that could apply to HB 5872's requirements, potentially chilling legitimate political expression. Similarly, California's Assembly Bill 730 (2019), which prohibits deceptive audio or visual media of candidates within 60 days of an election, has faced criticism for potentially restricting free speech, illustrating a precedent for HB 5872's potential impact on creative and political expression.

#### Enforcement Challenges and Ambiguity

The bill places the burden of proof on plaintiffs to demonstrate violations by "clear and convincing evidence" (Section 17.30-2(c)), yet it fails to clarify who determines whether a distributor "knows or should know" the media is deceptive (Section 17.30-1(c)). This ambiguity could lead to inconsistent enforcement, selective targeting of political adversaries, or frivolous lawsuits designed to silence opponents. This concern is evidenced by the 2021–2023 case of

Rudy Giuliani v. Ruby Freeman and Shaye Moss, where Giuliani shared a manipulated video alleging election fraud by Georgia election workers, leading to a 2023 federal jury finding him liable for defamation and awarding \$148 million in damages. While not AI-generated, this case involved manipulated media used deceptively in an electoral context, demonstrating the challenges of enforcing distinctions between deceptive and legitimate content under existing laws. Similarly, the 2024 U.S. election cycle saw political action committees use AI-generated content, such as synthesized voices of figures like Donald Trump in campaign ads, prompting a 2023 Public Citizen petition to the Federal Election Commission for regulation, but no formal action was taken by early 2025. These instances highlight the difficulty of enforcing synthetic media regulations consistently, a risk for HB 5872's framework. Moreover, the exemption for media outlets and internet platforms (Section 17.30-3(a)(3) and (5)) creates an uneven playing field, penalizing individual citizens while shielding larger entities with greater reach.

#### Unintended Consequences for Legitimate Communication

The 90-day pre-election window is a critical period for public debate, yet HB 5872 could deter candidates, committees, and independent advocates from using innovative tools to engage voters or investigate potential wrongdoing. For example, a campaign video using enhanced visuals to emphasize a candidate's message might inadvertently fall under the "synthetic media" definition, requiring costly compliance or risking litigation. This could disproportionately harm grassroots efforts lacking legal resources, favoring well-funded incumbents or organizations.

More alarmingly, the bill's provisions allowing candidates to seek injunctive relief or other equitable remedies against those using deceptive synthetic media (Section 17.30-2(a)) create a risk that candidates could weaponize the law to suppress legitimate criticism or investigation. A documented instance from Texas illustrates this concern: On March 17, 2025, Sholdon Daniels, a congressional candidate, reported on X (post ID: 1901722651602915641) that Rep. Jasmine Crockett threatened to sue him for "intimidating her donors" after he investigated alleged fraudulent contributions to her campaign via ActBlue. Daniels stated that an elderly couple denied making \$16,240 in contributions attributed to them. Crockett's legal threats included warnings that Daniels would be trespassed from any event she hosts if he attends, demonstrating how candidates can use legal action to silence critics. While this situation does not involve synthetic media, it highlights a broader risk applicable to HB 5872, where candidates could exploit its remedies to target opponents or investigators, even if the content in question isn't synthetic media, thereby chilling public accountability and free speech. The Slovakia deepfake case further illustrates this risk, as the circulation of deceptive audio may have been used to influence the election, potentially prompting legal or political retaliation against critics or investigators, a pattern that could emerge under HB 5872.

#### Insufficient Public Need

While misinformation is a valid concern, existing laws—such as those addressing defamation, fraud, and election interference—already provide remedies without necessitating a new, overly specific statute. For example, the Giuliani v. Freeman and Moss case demonstrates that

defamation laws can address manipulated media used deceptively in electoral contexts, suggesting HB 5872 may duplicate remedies. The bill's proponents have not demonstrated a widespread problem of synthetic media uniquely threatening Rhode Island elections, raising questions about its necessity versus its potential to overregulate, especially given the lack of documented synthetic media incidents in Rhode Island elections as of March 2025.

I urge the Committee to reconsider HB 5872 in light of these issues. Rather than advancing this legislation, I recommend exploring narrower, less restrictive measures—such as public education campaigns on media literacy or voluntary industry standards—that preserve free expression while addressing misinformation. If the bill proceeds, I strongly advocate for amendments to clarify definitions, reduce compliance burdens, ensure equitable application across all actors, and prevent its misuse as a tool for silencing political opponents.

Thank you for your attention to this matter to address safeguards for both electoral integrity and democratic freedoms.

Respectfully,

Pyara Meyer

Concerned Citizen