



**Prepared Remarks**  
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Georgia Senate Judiciary Committee  
Coverdell Legislative Office Building, Room 307  
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Good afternoon, Chairman and members of the committee. It's nice to see you all again. I'm Sarah Hunt-Blackwell, First Amendment Policy Advocate with the American Civil Liberties Union of Georgia.

I'd like to start by thanking Chairman Albers for introducing this bill as a means to help ensure safe and fair elections in Georgia. We believe that this bill has been introduced in good faith to directly address dangerous implications of AI technology. It is proactive and forward-thinking, especially given that we've entered a digital landscape that was likely unfathomable to framers of the Constitution. This is uncharted territory, and we are all trying to navigate it in the best ways possible.

The ACLU of Georgia shares the committee's concerns about disinformation and election interference, and First Amendment protections should be factored into state regulations on this matter. Navigating this delicate balance is critical. We've seen legislation similar to SB 392 in other states, most notably Minnesota and California. Those states addressed the same election interference concerns and drafted the bills to include necessary First Amendment carve outs and avoid over criminalization.

Our first recommendation, taken from Minnesota's legislation, is to require clear and obvious disclaimers on deep fake posts indicating that the content is AI-generated. We see similar "fact check" measures currently being applied on social media posts that feature misinformation. This is a strategy that could also be helpful in making people aware of AI-generated content about



election candidates but also allow people the range of free expression that is protected by the First Amendment.

Our second recommendation is to include exemptions based on established First Amendment case law. Bona fide media outlets, generally, have a First Amendment shield and should not face liability for sharing deep fake content as part of paid opportunities or legitimate news broadcasts. Social media companies also receive legal protection under Section 230 of the Communications Decency Act against liability for content published by its users. Additionally, satire and parody are commonly used during elections as political speech. Satirical expressions are protected by the First Amendment and should not be prohibited unless there are threats of violence or national security.

Our third and final recommendation is to reconsider the enforcement mechanism included in this bill. Injunctive relief and civil claims under tort law address the issues arising from deep fakes better than criminal penalties. Again, we thank Chairman Albers for introducing a sub that adds this language, but the criminal penalty is concerning. Other state legislatures, like those in Minnesota and California, do not criminalize offenses related to deep fakes. Applying felony charges to the publication of online content sets an unnerving and excessive precedent that this body should avoid.

The manufacturing of disinformation using AI is a serious issue that presents novel challenges. As we work through solutions, I ask this body to keep Constitutional protections top of mind. We are happy to share copies of legislation from other states and speak with members in detail to achieve protection in the fullest sense of the word. Thank you.