Virginia Takes First Step to Address "Deep Fake" Images and Video

07.08.2019

A law just went into effect in Virginia that makes it illegal to distribute falsely created pornographic videos and images of a person. Section 18.2-386 of the Virginia Code was designed to prevent the distribution of sexual or nude images of an individual without his or her consent ? commonly known as ?revenge porn?. Effective July 1, 2019, the law was amended to include adding a person?s ?face, likeness or other distinguishing characteristic? to a video or still image ?with the intent to depict an actual person?.

For a number of years, it has been possible to cut part of an image and paste it on another image. However, these images were often easily recognizable as crude copies. Artificial intelligence and other technologies now make it relatively easy to create realistic images, videos and even voice-overs that make it appear that someone did or said something they did not. The new law addresses a particularly offensive application using these technologies, as ?deep fake? porn has been used around the world against celebrities and in revenge porn contexts. However, addressing other applications for deception - for instance in politics ? through the law will prove much more difficult as there are significant First Amendment issues involved.

Related People

- Kevin D. Pomfret ? 703.760.5204 ? kpomfret@williamsmullen.com