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Testimony of Representative Grayson Lookner introducing LD 1585, "An Act To Increase Privacy and Security by Prohibiting the Use of Facial Surveillance by Certain Government Employees and Officials"
May 12, 2021

Senator Deschambault, Representative Warren, and honorable colleagues on the Committee on Criminal Justice and Public Safety. My name is Grayson Lookner, and I represent the neighborhoods of Libbytown, Nason's Corner, Rosemont, and Stroudwater in Portland. I'm here to introduce LD 1585 "An Act To Increase Privacy and Security by Prohibiting the Use of Facial Surveillance by Certain Government Employees and Officials."

Digital technology has upended our lives in profound ways in recent decades. The fact that I am presenting this testimony to you via Zoom is proof enough of that. The convenience technology affords us should not come at the expense of our most fundamental civil rights, however.

Facial recognition and surveillance is one such technology. In limited, focused use, it has appropriate applications to prevent fraud and apprehend those who have committed crimes. Without such narrow parameters, the technology undermines our constitutional rights – such as the right to privacy guaranteed by the 4th amendment, and the right to freedom of movement guaranteed in article IV. States have a duty to act to regulate the use of this technology.

There are concerns about the technology's accuracy, especially when applied to different populations. When studying the use of facial surveillance in the United Kingdom, researchers from the University of Essex found the technology only produced verifiable results in eight out of forty-two instances. A Massachusetts Institute of Technology study demonstrated the technology is strongly biased towards those with lighter skin and more masculine facial characteristics. These flaws are so severe that it has led to false arrests based on inaccurate identifications. Last year, one Detroit man spent almost 3 days in jail after being arrested in front of his two daughters based on inaccurate facial recognition. The man was also black. After the events of the last year surrounding police brutality towards people of color, it's not hard to envision a situation where such a false identification based on facial surveillance could lead to violence and needless death. We can prevent that from happening with the passage of this bill.

This bill, with a few specific exceptions, prevents the use of facial surveillance technology by public officials, public employees, and law enforcement at the state and municipal levels.

I have proposed an amendment to allow the Secretary of State's office to use the technology to identify potential fraud involving driver's licenses. I am also considering another amendment to this bill to encompass more private entities, like clearview.ai, a website that maintains a

database of billions of individual photos and can be used to identify people against their will for no reason at all.

I look forward to working with you all to create legislation that sensibly prevents the abuse and intrusive potential of facial surveillance technology in Maine. Thank you for hearing my testimony.