

CONFERENCE  
**TECH POLICY**  
THE NEXT TEN YEARS

# The Role of State AGs in Tech Policy

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# Agenda

## What is a State AG?

**Claim:** State AGs will be a key government actor in tech policy over the next 10 years

### Why?

- (1) State AGs have broad enforcement mandate
- (2) State AGs have flexible policymaking role

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**Enforcement**

## Many states grant AGs broad FTC-style enforcement authority

- **New Mexico: Unfair Practices Act (UPA)**
  - NM AG Raúl Torrez sued Snap and Meta for unfair practices
    - Match children with predators
    - Design addictive features for youth
    - Distribute child sexual abuse material (CSAM)
  - Status
    - Snap: Complaint filed
    - Meta: Defeated motion to dismiss

## **States also treat AGs as a *de facto* regulatory agency**

- **New Mexico Political Deepfakes Bill (HB 182)**
  - Enforcement actions can be brought by AG, district attorney, and effected individuals
- **Colorado AI Bill (SB 24-205)**
  - Developers owe consumers duty of reasonable care
  - Requires companies to disclose foreseeable risks to the AG
  - Only the AG can bring enforcement actions

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**Polycymaking**

## **AGs often propose legislation that's adopted by the legislature**

- **Washington AI Task Force Bill (SB 5838)**
  - Enacted AG Bob Ferguson's proposal
- **New York SAFE For Kids Act (SB 7694A)**
  - Enacted legislation co-written with AG Letitia James's staff
- **New Mexico (pending)**
  - AI-generated misinformation legislation

## States ask AGs for formal opinions of the meaning of statutes

- New Mexico Political Deepfakes Bill (HB 182)
  - Is HB 182's definition of "artificial intelligence" (AI) unconstitutionally vague?
  - Does HB 182's disclaimer requirement survive **exacting scrutiny** given that it does not apply to media produced with the depicted individual's consent?
  - What sort of enforcement actions does HB 182 authorize private individuals and organizations to bring?

## Conclusion

FTC + Tech-Agency + Legislator + Judge = AG

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## Thank you!

Please feel free to reach out about...

- Tech policy work for NM AG
  - Making sense of the many new AI bills
  - Misinformation legislation
- Research
  - How do new technologies challenge existing legal tests/doctrines?
  - How should judges be using AI?
  - How do we build civil society infrastructure to support new AI policy prescriptions (e.g., audits)?
- Law school